

THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF PUBLIC BUILDINGS
30-30 THOMSON AVENUE
LONG ISLAND CITY, NEW YORK 11101

CONTRACT FOR
CONSTRUCTION MANAGEMENT SERVICES

PROJECT: New York City Housing Authority
Apartment Repairs Program

BOROUGH: **BROOKLYN AND QUEENS**

FMS ID: **NYCHAREP**

REGISTRATION
NUMBER: _____

E-PIN: _____

PIN NUMBER: _____

CM: _____

Project Specific Contract
Construction Management Services
DSRxMultiplier
March 2020

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the City of New York (the “City”) acting by and through the Commissioner of the Department of Design and Construction (the “Commissioner”) and _____, (the “CM”), located at _____.

WITNESSETH:

WHEREAS, the City desires to have construction management services performed for the construction project described in Exhibit A (the “Project”), and

WHEREAS, the CM has been selected based upon and in consideration of its representation that it can perform the required services set forth herein in a timely and expeditious manner,

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 “Agreement” means the various documents that constitute the contract between the CM and the City, including (1) the Request for Proposals for the Contract (“RFP”), (2) the CM’s Proposal for the Contract, and (3) the Exhibits set forth below. In the event of any conflict between the RFP and the CM’s Proposal, the RFP shall prevail.

Exhibit A Contract Information with Schedule A
Exhibit B Staffing Plan and Identification of Subconsultants
Exhibit C Project Objectives
Exhibit D DDC Safety Requirements
Exhibit E Schedule B: M/WBE Utilization Plan
Exhibit F DDC BIM Guidelines dated July 2012
Exhibit G Hiring and Employment Rider: HireNYC and Reporting Requirements
Exhibit H Appendix A: General Provisions Governing Contracts for Consultants, Professional, Technical, Human and Client Services with Schedule A
Exhibit I New York City Standard Construction Contract and General Conditions
Exhibit J Incentives and Liquidated Damages

1.2 “Agency” means a city, county, borough or other office, position, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the City treasury.

1.3 “Agency Chief Contracting Officer” or “ACCO” means the position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the City Chief Procurement Officer.

1.4 “Architect” or “Consultant” means any person, firm, partnership or corporation engaged by the Department to furnish architectural, engineering, design, or any other consulting services for the Project.

1.5 “Building Information Modeling” or “BIM” means a computerized process that involves the generation and management of digital representations of physical and functional characteristics of a facility. The resulting Building Information Models (“BIMs”) serve as shared knowledge resources to support decision-making about a facility throughout the entire design and construction process. BIM provides a process for the virtual construction of a facility prior to its actual physical construction, thereby reducing uncertainty, improving safety, working out problems, and simulating and analyzing potential impacts. BIM embodies and is capable of generating the following documents: Design Documents, Shop Drawings, and Record Drawings (also known as “As Built Drawings”).

1.6 “Building Information Model(s)” or “BIM(s)” means the digital model(s) generated through the BIM process.

1.7 "City" means the City of New York.

1.8 “City Chief Procurement Officer” or “CCPO” means the position delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCOs.

1.9 “Commissioner” or “Agency Head” means the head of the Department or his or her duly authorized representative. The term “duly authorized representative” shall include any person or persons acting within the limits of his or her authority.

1.10 "Commissioner's Representative" means the Project Manager designated by the Commissioner or any successor or alternate representative designated by the Commissioner.

1.11 "Comptroller" means the Comptroller of the City of New York, his/her successors, or duly authorized representatives.

1.12 “Construction Documents” are the final stage of “Design Documents”, as defined herein. “Construction Documents” means the final plans, drawings and specifications for the construction work and all modifications thereto prepared by Consultant(s) engaged by the Department and approved in writing by the Commissioner.

1.13 “Construction Manager” or “CM” means the entity entering into this Agreement with the Department.

1.14 “Consultant” or “Consultant(s)” means any person, firm, partnership or corporation engaged by the Department, other than the CM, to furnish architectural, engineering, design, or any other consulting services for the Project.

1.15 "Contract" or "Contract Documents" means the Agreement referred to in Paragraph 1.1 of this Article.

1.16 “Contractor” or “Construction Manager” or “CM” means the entity entering into this Agreement with the Department.

1.17 “Days” means calendar days unless otherwise specifically noted to mean business days.

1.18 “Department” or “DDC” means the Department of Design and Construction of the City of New York acting by and through the Commissioner thereof, or his/her duly authorized representative.

1.19 “Design Documents” means all plans, drawings and specifications for the construction work and all modifications thereto prepared by Consultant(s) engaged by the Department and approved in writing by the Commissioner. As an integral part of the design process, the Consultant is required to utilize “Building Information Modeling” (“BIM”), thereby ensuring that BIM embodies and is capable of generating the Design Documents.

1.20 “Drawings” means all graphic or written illustrations, descriptions, explanations, directions, requirements and standards of performance applied to the construction work.

1.21 “Final Acceptance” means the final written acceptance of all required construction work for the Project, as determined by the Commissioner.

1.22 “Government Entity” means the United States, the State and City of New York, and any and every agency, department, court, commission, or other instrumentality or political subdivision of government of any kind whatsoever, now existing or hereafter created.

1.23 “Law” or “Laws” means the New York City Charter (“Charter”), the New York City Administrative Code (“Admin. Code”), a local rule of the City of New York, the Constitutions of the United States and the State of New York, a statute of the United States or of the State of New York and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

1.24 “Mayor” means the Mayor of the City of New York, his/her successors or duly authorized representatives.

1.25 “Modification” means any written amendment of this Agreement signed by both the DDC and the CM.

1.26 “Notice to Proceed” or “NTP” means the written notice issued by the Commissioner specifying the time for commencement of the work.

1.27 “Procurement Policy Board” or “PPB” means the board established pursuant to Charter § 311 whose function is to establish comprehensive and consistent procurement policies and rules which have broad application throughout the City.

1.28 “PPB Rules” means the rules of the Procurement Policy Board as set forth in Title 9 of the Rules of the City of New York (“RCNY”), § 1-01 et seq.

1.29 “Project” means the Project described in Exhibit A.

1.30 “Safety Standards” means all laws, union rules and trade or industry custom or codes of any kind

whatsoever, in effect from the date of this Agreement through Final Acceptance of the construction work, pertaining to worker safety and accident prevention applicable to the Project and/or the construction work (including, but not limited to, rules, regulations and standards adopted pursuant to the Occupational Safety and Health Act of 1970, as amended from time to time).

1.31 "Shop Drawing" means any and all drawings, diagrams, layouts, explanations, illustrations, manufacturer's drawings or other written or graphic materials which illustrate any portion of the construction work.

1.32 "Site(s)" means the area(s) upon or in which the construction work is carried on, and such other areas adjacent thereto as may be designated by the Commissioner.

1.33 "Specifications" means all of the directions, requirements and standards of performance applied to the construction work.

1.34 "State" means the State of New York.

1.35 "Subcontractor" or "Subconsultant" means any person, firm, or corporation, other than employees of the CM, who or which contracts with the CM or its subcontractors to furnish, or actually furnishes services, labor, or labor and materials, or labor and equipment hereunder. All Subcontractors are subject to the prior written approval of the Commissioner.

1.36 "Substantial Completion" means the written determination by the Commissioner that all required construction work for the Project is substantially complete.

ARTICLE 2 - GENERAL PROVISIONS

2.1 General Provisions governing the Contract, including insurance coverage the CM and its subconsultants are required to provide, are set forth in Appendix A. Appendix A is included as an Exhibit to the Contract.

2.2 The CM must comply with the HireNYC Rider. The HireNYC Rider is included as an Exhibit to the Contract.

ARTICLE 3 - AGREEMENT TO SERVE

3.1 The City hereby retains the CM to perform the services hereinafter described, on the terms and conditions specified herein, and the CM agrees to so serve. The CM agrees to provide, to the satisfaction of the Commissioner, all services necessary and required for the inspection, supervision, management, coordination and administration of the Project, so that the required construction work is properly executed, completed in a timely fashion and conforms to the requirements of the construction contract and to good construction practice. The services to be provided by the CM shall include without limitation the services set forth in Article 6. The CM hereby certifies that it has the necessary experience, expertise, manpower and resources to fulfill its obligations under this Contract competently and efficiently. The CM agrees to use its best efforts to complete the Project as soon as possible and at the lowest possible cost to the City.

ARTICLE 4 - TIME PROVISIONS

4.1 Term of the Contract: The Contract shall commence as of the date set forth in the Notice to Proceed (“NTP”) and shall remain in effect until Final Acceptance of all required construction work for the Project and completion of all required services hereunder, including post construction services. The anticipated time frame for completion of all required services is set forth in Exhibit A.

4.2 Project Schedule: The CM submitted a preliminary Project Schedule with its proposal for the Contract. Within 30 Days of NTP, the CM shall submit for the Commissioner’s approval a final Project Schedule that conforms with the Project Objectives and the Project completion requirements set forth in the RFP, and that incorporates any revisions requested by the Commissioner. Once approved, such Project Schedule shall be strictly adhered to by the CM. When appropriate and directed by the Commissioner, the Project Schedule shall be revised, subject to written approval by the Commissioner. The revised Project Schedule shall be strictly adhered to by the CM.

4.3 Extension of Contract: Upon written application by the CM, the Agency Chief Contracting Officer (“ACCO”) may grant an extension of time for performance of the Contract. Said application must state, at a minimum, in detail, each cause for delay, the date the cause of the alleged delay occurred, and the total number of delay in days attributable to such cause. The ruling of the ACCO shall be final and binding as to the allowance of an extension and the number of days allowed.

4.4 Time of Essence: In performing services hereunder, the CM shall place emphasis on considerations which will aid in expediting the construction of the Project consistent with the construction standards and procedures of the City. The CM agrees to use all resources at its command so that the Project is completed on or before the established Project completion date by the construction contractor(s). To accomplish such timely completion, the CM shall give constant attention to the adequacy of the contractor’s planning, personnel, equipment and the availability of materials and supplies. The CM acknowledges that time will be of the essence in bringing the Project to completion and agrees to use its best efforts to prevent delays. If a situation cannot be resolved, the CM shall bring it to the immediate attention of the Commissioner.

4.5 Responsibility for Delay: In the event the Project is not completed within the timeframe set forth in the original Project Schedule (i.e., the Project Schedule submitted by the CM as part of its Proposal for the Contract), the Commissioner shall prepare a report analyzing the causes of the delay and determining responsibility for the same.

4.5.1 If the report indicates that the CM, as a result of its actions or inactions, is responsible for the delay, or any portion thereof, the Commissioner shall deduct from any amount due and owing to the CM under this Contract, the total amount of staffing expenses paid to the CM for the period of the delay, or any portion thereof, for which the Commissioner determines the CM is responsible. For the purpose of this deduction, staffing expenses means the Direct Salary Rates for all Assigned Personnel times the Multiplier set forth in Exhibit A.

4.5.2 If the amount due and owing to the CM under this Contract is less than the total amount of staffing expenses paid to the CM for the period of the delay, or any portion thereof, for which the Commissioner determines the CM is responsible, the CM shall be liable for and agrees to pay the difference upon demand by the Commissioner.

4.5.3 If the CM files a dispute regarding its responsibility for the delay, or any portion thereof, the CM is obligated, while the dispute is pending, to continue performing any required services pursuant to this Contract, and, if demanded by the Commissioner, to pay the amount described in the paragraph above.

4.5.4 The following shall have no relevance to a determination by the Commissioner that the CM is responsible for the delay, or any portion thereof: (a) approval by the Commissioner of any time extension(s), and/or (2) approval by the Commissioner of any revised Project Schedule. Any such approval(s) by the Commissioner shall not be referred to or offered in evidence by the CM or its attorneys in any dispute or proceeding regarding the CM's responsibility for the delay.

ARTICLE 5 - THE CM'S PERSONNEL

5.1 General: The CM agrees, throughout the term of the Contract, to provide personnel for the performance of all required services for the Project, as directed by the Commissioner. The CM specifically agrees that its employees, agents and consultants shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

5.2 Staffing Plan: The CM shall provide personnel in accordance with the final approved Staffing Plan. Prior to finalization, the Staffing Plan is subject to review and approval by the Commissioner in accordance with the process described below. The Staffing Plan submitted by the CM as part of its Proposal for the Contract is set forth in Exhibit B.

5.2.1 Contents of Staffing Plan: The CM's Staffing Plan shall include the items set forth below.

- (a) Contract Executive, identified by the CM in its Proposal for the Contract.
- (b) Key CM Personnel: Required titles of Key Personnel and specific individual for each title identified by the CM in its Proposal for the Contract.
- (c) Other CM Personnel: Required titles and specific individual for each title
- (d) Direct Salary Rate per hour for each specified individual (except Contract Executive), determined by the Commissioner in accordance with Article 7.
- (e) Total estimated hours per title per Phase (Pre-Construction, Construction and Post Construction)
- (f) Total estimated amount per title per Phase (Pre-Construction, Construction, and Post Construction)
- (g) Total estimated amount for all required titles
- (h) An organization chart for all Assigned Personnel performing services hereunder

5.2.2 Limitations on Payment: The specific individuals identified in the Staffing Plan, except for any Contract Executive(s), shall be considered assigned personnel for the purpose of the CM's entitlement to payment for services performed by such individuals in accordance with Article 7. As specified therein, the CM shall not be entitled to payment for staffing expenses for: (1) any Contract Executive(s), and (2) any individual not included in the approved Staffing Plan.

5.2.3 Contract Executive: The Contract Executive, identified in Exhibit B, shall serve as the CM's principal representative with respect to its obligations hereunder. Such Contract Executive shall be

responsible for coordinating the activities of personnel performing services and for providing, on an as needed basis, executive or management expertise and oversight with respect to the Project. The CM shall not be entitled to payment for services provided by any Contract Executive(s). Compensation for services provided by any Contract Executive(s) is deemed included in the Multiplier. The Contract Executive must, at all times throughout the term of the Agreement, be a principal or officer of the CM.

5.2.4 Key Construction Management (CM) Personnel: The Key CM Personnel, identified in Exhibit B, shall provide all services necessary and required for the inspection, supervision, management, coordination and administration of the Project, so the required construction work is properly executed, completed in a timely fashion and conforms to the requirements of the Construction Documents, as well as to good construction practice.

5.2.5 Agreement to Assign: The CM specifically agrees to assign to the Project for its entire duration, the specific individuals identified in Exhibit B (“Staffing Plan”) as the Contract Executive and the Key CM Personnel. These individuals were identified by the CM in its Proposal for the Contract. Failure by the CM to provide any of the individuals identified in the Staffing Plan as Contract Executive and/or Key CM Personnel shall be considered a material breach of the Contract and grounds for termination for cause. Replacement of such Contract Executive and/or Key CM Personnel will only be permitted in the following circumstances: (1) if the designated individual is no longer employed by the CM, or (2) if the City does not direct the CM to commence work on the Project within nine (9) months of the date on which the CM submitted its Proposal for the Contract. Replacement of such Contract Executive and/or Key CM Personnel must comply with the conditions set forth below.

5.2.6 Other Construction Management (CM) Personnel: In addition to the Key CM Personnel, other CM personnel were identified by the CM in its Proposal for the Contract. Such other CM personnel shall provide services that are supportive or ancillary to the services provided by the Key CM Personnel. Replacement of such CM personnel must comply with the conditions set forth below.

5.2.7 Proposed Staffing Plan: Within five (5) business days of a written request from the Commissioner, the CM shall submit a proposed Staffing Plan for the Project. Such Staffing Plan shall include the items listed above. With respect to each individual, the CM shall provide: (1) the individual’s resume, as well as any other information detailing his/her technical qualifications and expertise, and (2) direct salary information, including the individual’s current actual annual direct salary, as defined in Article 7, and direct salary history for the previous year.

5.2.8 Review and Approval of Staffing Plan: The Commissioner shall review the CM’s proposed Staffing Plan and shall direct revisions to the same if necessary prior to final approval thereof. As part of his/her review, the Commissioner shall determine the following: (1) whether the Staffing Plan includes the individuals identified by the CM as Key Personnel its Proposal for the Contract, (2) whether each specific individual is qualified for the applicable title, and (3) the direct salary rate per hour to be paid for each specific individual, computed in accordance with Article 7. The CM shall revise the Staffing Plan as directed, until such plan is approved in writing by the Commissioner.

5.2.9 Revisions to the Staffing Plan: Any revisions to the Staffing Plan must be specifically requested in writing by the CM, if not directed by the Commissioner, and approved in writing by the Commissioner.

- (a) Replacement Personnel: No substitutions for assigned personnel shall be permitted unless the proposed replacement has received the prior written approval of the Commissioner. Replacement personnel must possess qualifications substantially similar to those of the personnel being replaced and, in any event, with qualifications meeting the minimum requirements, if any, set by the Commissioner. As set forth above, replacement of the Contract Executive and/or the Key CM Personnel will only be permitted under the circumstances set forth in Article 5.2.5.
- (b) Changes by the Commissioner: The Commissioner reserves the right to direct changes to the Staffing Plan, including without limitation, modifying the titles and/or minimum requirements of personnel necessary for the Project and increasing or decreasing the personnel assigned to the Project, based upon the scope of the required work. The CM shall increase or decrease the personnel assigned to the Project, as directed by the Commissioner.
- (c) Removal of Personnel: At the Commissioner's request at any time, the CM shall remove any personnel and substitute another employee of the CM reasonably satisfactory to the Commissioner. The Commissioner may request such substitution at any time, in their sole discretion. The Commissioner will not be required to furnish a reason for requesting such substitution.
- (d) Revisions Due to Delay: In the event completion of the Project is delayed for any reason, including without limitation, strike, work stoppage, severe weather conditions or other circumstances not due to the fault of the CM, the Commissioner shall, in writing, direct revisions to the Staffing Plan to decrease the level of staffing to be maintained throughout the delay. The CM shall be paid for the cost of the staffing it is directed by the Commissioner to maintain. Upon termination of the delay, the CM shall restore the level of staffing as directed by the Commissioner.

5.3 Night Differential / Overtime: The CM shall provide a statement describing its company policy with respect to payment of a premium for services performed during other than regular business hours (i.e., premium for Night Differential and/or Overtime). The CM's statement describing its policy shall indicate the following: (1) whether the policy is consistently applied to all clients; (2) the designated class(s) of employees to whom such policy applies, and (3) the premium or rate of increase to be paid to employees for such services. For the purpose of payment, the CM's policy regarding payment of a premium for services performed during other than regular business hours is subject to approval by the Commissioner. Approval shall only be given if the policy is reasonable, consistently applied to all clients and in accordance with standard practice in the industry. Payment of a premium for services performed during other than regular business hours is subject to the limitation set forth in Article 7.

5.4 Subconsultants: The CM shall engage the Subconsultant(s) identified in its Proposal for the Contract and set forth in Exhibit B, unless otherwise approved by the Commissioner. Failure by the CM to provide the Subconsultant(s) set forth in Exhibit B shall be grounds for termination for cause. The CM shall be responsible for the performance of services by its Subconsultant(s), including maintenance of schedules, correlation of their work and resolution of all differences between them.

5.4.1 General Provisions: General Provisions governing the Contract, including provisions requiring the approval of subcontractors, are set forth in Appendix A. Appendix A is included as an Exhibit to the Contract.

5.4.2 Replacement Subconsultants: No substitution for any Subconsultant shall be permitted unless approved by the Commissioner. Any proposed replacement Subconsultant must possess qualifications and experience substantially similar to those of the Subconsultant being replaced and is subject to the prior written approval of the Commissioner. In addition, at the Commissioner's request at any time, the Engineer shall remove any Subconsultant and substitute another Subconsultant reasonably satisfactory to the Commissioner. The Commissioner may request such substitution at any time, in their sole discretion. The Commissioner will not be required to furnish a reason for requesting such substitution.

5.4.3 Payment: Expenses incurred by the CM in connection with furnishing Subconsultants for the performance of required services hereunder are deemed included in the payments by the City to the CM, as set forth in Article 7. The CM shall pay its Subconsultant(s) the full amount due them from their proportionate share of the requisition, as paid by the City. The CM shall make such payment not later than seven (7) calendar days after receipt of payment by the City.

ARTICLE 6 – CONSTRUCTION MANAGEMENT SERVICES

6.1 General: The CM shall provide, to the satisfaction of the Commissioner, the services set forth in this Article 6.

6.1.1 Construction Management (CM) Services: The CM shall provide all services necessary and required for the inspection, supervision, management, coordination and administration of the Project, so that the required construction work is properly executed, completed in a timely fashion and conforms to the requirements of the construction contract and to good construction practice. The construction management services to be provided by the CM shall include without limitation the services set forth in this Article 6. The CM shall cooperate in all respects with representatives of the Commissioner concerning all aspects of the Project.

- (a) The CM shall serve as the representative of the Commissioner at the site and shall, subject to review by the Commissioner, be responsible for the services delineated in the article of the Standard Construction Contract entitled “The Resident Engineer”. DDC shall notify the construction contractor(s) in writing that the CM has been designated by the Commissioner to serve as the “Resident Engineer”, as that term is defined in the Standard Construction Contract, in connection with the Project.
- (b) The CM shall ascertain the standard practices of the City prior to the performance of services required by this Contract. All CM services performed hereunder shall be in accordance with these standard practices.
- (c) The Commissioner or his duly authorized representative(s) shall have the right at all times to inspect the work of the CM and contractors.
- (d) The CM’s services shall include the management, supervision and coordination of any Reimbursable Services required for the Project.

6.1.2 Reimbursable Services: The CM shall provide Reimbursable Services as directed in writing by the Commissioner. Reimbursable Services are described in Article 6.6.

6.1.3 Non-Reimbursable Services: Throughout the Contract, the CM shall be responsible for providing the non-reimbursable items and/or services set forth below. All costs for providing such items and/or services are deemed included in the Multiplier.

- (a) Overnight Delivery: Upon request, the CM shall provide overnight delivery of the following Project documents: (1) design documents; (2) all required submittals, including without limitation shop drawings, material samples and catalogue cuts; (3) change orders; (4) documents with respect to payment, and (5) any other critical communications and/or documents.
- (b) Transportation: The CM shall provide transportation for all personnel performing services, including without limitation: (1) expenses for ordinary transportation (i.e., other than long distance travel, as set forth in Article 6.6), (2) expenses for time spent by personnel commuting or traveling, and (3) expenses for parking and tolls. CMs and/or Subconsultants that are not located in New York City or its vicinity shall not be entitled to reimbursement for transportation expenses.
- (c) Equipment: The CM shall provide the items set forth below for all personnel performing services, including any Contract Executive(s).
 - (1) All computer hardware and software necessary for the CM to perform the required services, including but not limited to, CADD equipment and software, BIM equipment and software, Data Management services equipment and software, and computer and internet usage time and monthly costs thereof.
 - (2) All necessary office supplies and/or tools
 - (3) Communications equipment and service, including without limitation smartphone mobile telephones, tablet computing devices and other mobile office equipment. The telephone numbers of all personnel shall be submitted to the Commissioner.
 - (4) Hard hats, safety vests, and all other necessary and required Personal Protective Equipment (P.P.E.).
- (d) In the event the CM is directed in advance in writing by the Commissioner to provide services which require long distance travel, the CM shall be reimbursed for expenses incurred in connection with such long-distance travel. Long distance travel is defined in Article 6.6.

6.2 Services Throughout all Project Phases

6.2.1 Project Management Plan (PMP): Within 30 Days of NTP, the CM shall submit for the Commissioner's approval a Project Management Plan ("PMP") for the Project that defines the Project goals, scope, organization chart including roles, responsibilities and communication protocol, cost and schedule management plan, quality management plan, safety management plan, permit management plan, commissioning plan, risk management plan, document management plan, and standard operating procedures and standard forms for the Project. The PMP shall identify all tasks required for the successful completion of the Project, including CM tasks as provided for in this Agreement. The PMP must demonstrate how the CM will comply with all Contract obligations, including but not limited to its oversight of the construction contractor as the Resident Engineer for the Project. The CM shall update the PMP monthly as the Project progresses through design, procurement, and construction, and/or as directed by the Commissioner.

6.2.1.1 In addition to the items listed above, the PMP must include:

- (a) A Design Document Review Plan detailing the CM's timeline, plan and procedures for timely reviewing all Design Documents for the items set forth in Article 6.3.8, including responsible parties for each stage of review. Such Design Document Review Plan shall be strictly adhered to by the CM. When appropriate and/or as directed by the Commissioner, the Design Document Review Plan shall be revised, subject to written approval by the Commissioner. The revised Design Document Review Plan shall be strictly adhered to by the CM.
- (b) Regulatory Approval Plan which would start from any applications to any final sign offs.

6.2.2 The CM shall provide monthly reports to the Commissioner analyzing progress of the Project, including a comparison of the original baseline schedule, and identifying any reason(s) for delays.

6.2.3 The CM shall provide monthly reports to the Commissioner updating the budget for the Project, including a comparison of the original budget with current disbursements and the estimated cost to complete.

6.2.4 The CM shall prepare correspondence or other communications to the Consultant(s) and/or construction contractor(s) as required in order to advance the Project.

6.2.5 Building Information Modeling (BIM) Services: Throughout the project, the CM shall provide oversight to ensure that BIM services and/or uses are properly implemented by the Consultant(s) and all construction contractors, as described in the DDC BIM Guidelines. BIM services and/or uses include, without limitation, the following: clash detection, cost estimation, scope delineation, construction system design, phase planning, digital fabrication, record modeling, and asset management. The CM shall prepare a Project BIM Execution Plan and shall ensure that the Consultant(s) and all construction contractors comply with the Submission Requirements outlined such plan, as well as in the DDC BIM Guidelines.

6.2.6 Lean Construction Strategies: If directed in writing by the Commissioner, the CM shall implement Lean Construction Strategies, including without limitation, the strategies described below.

- (a) The CM shall implement "Last Planner", a series of workshops and seminars providing recommendations for scheduling strategies, including setting milestones and identifying long lead items.
- (b) The CM shall make recommendations for "pull planning", a strategy for specifying handoffs of work and identifying operational conflicts.
- (c) The CM shall make recommendation for "look ahead planning", a strategy for ensuring that work is made ready for installation, including re-planning as necessary.
- (d) The CM shall make recommendations for weekly work planning, i.e., obtaining commitments to perform work in a certain manner and a certain sequence.
- (e) The CM shall make recommendations for continuous improvement of these strategies, based on lessons learned.

6.2.7 Data Management: The CM shall provide and maintain throughout the Project a cloud-based digital data management system and collaboration platform for communication and sharing of all project files, documents and BIM's. The data management system, including the categories into which the data is organized, is subject to prior written approval by the Commissioner. Such data management and collaboration platform shall have varying levels of access for all project participants, including

construction contractor(s), sub-contractors, Consultant(s), end-users and DDC project management staff. The CM will provide all necessary licenses to ensure cloud-based access to Project participants. Provide the Commissioner's Representative with full viewing access rights. Such data management and collaboration platform shall be organized to manage all project related data in a manner consistent with industry practice and/or the Commissioner's direction, including without limitation, organization into the following categories: Contract Documents, Sketches, Requests for Information, BIM's, and Shop Drawings. Prior to termination or expiration of the Contract, the CM shall deliver the entire contents of the cloud-based digital data management system to the Commissioner on a clearly labeled USB drive.

6.3 Services During Pre-Construction Phase: The CM will serve as a coordinator and advisor throughout the design and procurement process. The services to be provided by the CM during the Pre-Construction Phase shall include without limitation the services set forth below, **as directed in writing** by the Commissioner.

6.3.1 Make an initial site visit to observe existing site conditions and shall research existing conditions and utilities that may be present at the Site and shall identify site constraints that may impact scope, cost, schedule, or construction. The CM shall prepare a detailed site logistics plan to be incorporated into the bid documents.

6.3.2 Review and evaluate all available project data and reports, including, but not limited to, the capital project scope development final report, Project Objectives, schematic design report, commissioning plan, geotechnical reports, and environmental assessments. Advise the Commissioner of Project risks and any inconsistencies, discrepancies, or budget shortfalls that should be addressed in the next phase of design.

6.3.3 Review and evaluate the overall budget for the Project, taking into account all funds available or to be made available, and identify amounts, including contingencies, available for each major activity, including design, construction, and construction management. The budget for the Project must take into consideration any anticipated increases in the cost of labor and/or material.

6.3.4 Not used.

6.3.5 Attend all bi-weekly design progress meetings. The CM shall provide critical and technical feedback regarding design impact to scope, cost, schedule, and constructability. The CM shall review the Consultant(s)' meeting minutes for accuracy.

6.3.6 Attend milestone review meetings to discuss milestone review comments and Consultant responses.

6.3.7 Attend mandatory jobsite inspections. Review and provide comments for jobsite inspection reports prepared by the Consultants. Ensure comments are addressed.

6.3.8 Review of Design Documents: The CM shall monitor the design Consultant's work to ensure that it is consistent with the Project Objectives and with DDC's Design Consultant Guide. The CM shall perform quality control reviews of drawings and specifications produced by the design Consultant and provide written comments with respect to Design Documents prepared by the Consultant for the Project. Design Document reviews are expected at 100% design development ("DD"), 50% construction

documents (“CD”), and 100% CD and shall be completed by the CM within 14 Days of each design milestone. All Design Document reviews performed by the CM are solely for the benefit of the City of New York and any benefits derived by the Consultant(s) shall be merely incidental. The CM's reviews and comments shall address the issues set forth below.

- (a) Constructability of the design;
- (b) Coordination, including elimination of conflicts and/or overlaps (utilizing BIM clash detection);
- (c) Design errors and omissions in order to reduce change orders during construction;
- (d) Economy and efficiency of design;
- (e) Construction methods and materials;
- (f) Availability of materials and labor;
- (g) Minimalization of impact on agency operations;
- (h) Minimalization of impact on neighboring property owners;
- (i) Division of the Work for the purpose of bidding, taking into account such factors as the type or scope of Work to be performed (utilizing BIM scope delineation), time of performance, availability of labor, community relations and other pertinent data relating to the various trades involved;
- (j) Time of performance and Project Schedule, identifying opportunities to compress or reduce the Project Schedule;
- (k) Compliance with the required scope of Work;
- (l) Compliance with criteria set forth in the DDC Design Consultant Guide and the DDC BIM Guidelines;
- (m) Compliance with review comments made by CM, DDC and other Project participants, including but not limited to sponsors, stakeholders, commissioning agents, or Consultants;
- (n) Avoidance of possible conflicts and overlapping jurisdiction among the Subcontractors performing Work for the Project, including proposed and recommended solutions for the elimination of such conflicts or overlaps, at least one of which proposed solutions shall utilize BIM scope delineation;
- (o) Avoidance of inconsistencies, problems, delays and change orders during the construction process;
- (p) Risk registers associated with the Project, and risk analysis, and risk assessment register log;
- (q) Opportunities to reduce construction impacts on the surrounding community; and
- (r) Commissioning.

6.3.9 In addition to and without limiting the foregoing, the CM shall, as part of its review of the design documents, (1) identify any issues that may generate problems during construction; (2) make recommendations for any changes in the Work it considers necessary or desirable, and (3) make any observations or raise any concerns it may have concerning the design or the structural integrity of the same.

6.3.10 The CM shall record and track all comments received on the Design Documents, including but not limited to comments from the Commissioner, and their resolution. The CM shall ensure that all comments are resolved in a timely manner and shall notify the Commissioner in the event that comments are not being addressed within a reasonable period by the Consultant(s) or other party(ies).

6.3.11 As directed by the Commissioner, at the end of design development, the CM shall provide

a list of recommended alternatives for each bid package and shall establish a bidding strategy commensurate with the Project goals and objectives.

6.3.12 Detailed Cost Estimate: The CM shall provide an independent detailed cost estimate for the Project, based upon design documents prepared by the Consultant, at 100% DD, 50% CD, and 100% CD. Such cost estimate(s) must be in a format approved by the Commissioner. In preparing its estimate, the CM shall compare the quantities in its estimate with quantities derived from BIM. The CM shall compare and reconcile the quantities in its estimate with the quantities in the estimate prepared by the Consultant.

6.3.13 Take appropriate action to ensure that all required filings with regulatory agencies with respect to the design have been made to ensure construction start is according to the approved Project Schedule.

6.3.14 Review bid and Construction Documents for the Project and evaluate the same for completeness and compliance with DDC requirements. The CM's review shall ensure that the bid and Contract Documents include the following: (i) all construction work, (ii) DDC General Conditions, and (iii) reconciled quantities in accordance with Article 6.3.12.

(a) The CM's review shall identify any conflicts with regulatory requirements. If required for the Project, such General Conditions shall include provisions for temporary facilities necessary to enable the contractors to perform their work.

(b) If bid and Construction Documents do not satisfy the above requirements, notify the Commissioner. If directed by DDC, the CM shall assist in the preparation of such bid and Contract Documents for the Project; provided, however, the CM shall have no responsibility for the preparation of Design Documents or other documents for which Consultant has responsibility.

(c) For multi-prime projects, the CM shall recommend appropriate subdivision of the work and review the final bid documents for compliance with the Commissioner's requirements for the same.

(d) The CM shall review, recommend, and estimate allowances, unit prices and other requirements for inclusion in the bid packages.

(e) The CM shall develop lists of potential qualified bidders and, if so directed, shall conduct outreach efforts.

6.3.15 Review and evaluate the qualifications and prior experience of construction contractors seeking to be included on the list of Pre-Qualified contractors for the Project, if applicable.

6.3.16 Attend Pre-Bid Conference(s) at the project site. Provide meeting minutes within two (2) Days of each Pre-Bid Conference and, if directed, draft addenda for DDC review.

6.3.17 During the bidding process for the construction contracts, make recommendations to the Commissioner to coordinate the work of the Consultant(s) to assure that any required addenda are promptly issued.

6.3.18 The CM shall assist DDC in responding to inquiries made by potential bidders during the solicitation period, including but not limited to sorting and directing incoming inquiries to the appropriate party if the CM cannot draft a response without additional input from the Consultant or DDC. The CM shall coordinate timely responses and all draft responses must be forwarded to the Commissioner for approval.

6.3.17 Attend Bid-Opening for the Project.

6.3.18 Following the receipt of bids, review bid tab and bid breakdown of lowest bidder, and make recommendations to the Commissioner as to the capabilities and qualifications of bidders for the Project, as well as any subcontractors and/or suppliers of equipment and materials proposed by them. The CM shall analyze the bid results for potential error, review the apparent low bids for Contractor responsiveness and compliance with bid requirements. At the Commissioner's request, the CM shall review the bid results for bidding climate issues, adequacy in the number of bidders, and the spreading or groupings of bid results.

6.3.19 In the event that the difference between the bid price of the lowest responsive and responsible bidder and the CM's final pre-bid estimate is 10% or greater, the CM may be directed to provide a post-bid analysis identifying potential causes for the difference.

6.3.20 Attend Pre-Award meeting.

6.3.21 The CM shall maintain copies of all bonds and insurance certificates and will notify the Commissioner 30 Days prior to the expiration of any required policies.

6.4 Services During Construction Phase: The CM shall serve as the administrative focal point for all activity and information between the Commissioner, the Consultant(s), the construction contractor(s). All instructions from the Consultant to the construction contractor(s) shall be forwarded through the CM. Inquiries from construction contractor(s) that required a response from the Consultant shall be forwarded through the CM. The services to be provided by the CM during the Construction Phase shall include without limitation the services set forth below, as directed in writing by the Commissioner.

6.4.1 Prior to the commencement of the Work, obtain or verify that the construction contractor(s) have obtained all necessary permits, certificates, licenses or approvals, required for the performance of the Work by the New York City Building Code, the Electrical Code or any other applicable law, rule or regulation of any government entity. Assure that no Work proceeds in the absence of such necessary permits, certificates, licenses or approvals.

6.4.2 Provide or cause to be provided all temporary facilities and utilities as necessary for the performance of the Work.

6.4.3 Undertake the following responsibilities with respect to submittals and approvals:

- (a) Implement procedures to be followed by construction contractors for the expeditious processing of submittals, including without limitation shop drawings, material samples and catalogue cuts. Such procedures shall be in accordance with DDC Guidelines and the General Conditions. Such procedures shall require the construction contractors to submit shop drawings in hard copy, as well as in digital form (i.e., in the form of BIMs).
- (b) Make recommendations to the Commissioner regarding the approval of proposed subcontractors and material vendors.

6.4.4 Undertake the following responsibilities with respect to the inspection of the Work:

- (a) Provide technical inspection, supervision and coordination of the Work on the Project until final completion of the Work and Final Acceptance thereof by the Commissioner, verifying that the materials furnished and Work performed are in accordance with all requirements of the Construction Documents, and that Work on the Project is progressing on schedule.
- (b) Provide offsite plant inspection of fabricated and/or raw materials to be used on the Project, as directed by the Commissioner, to insure conformance with the material specifications of the Construction Documents.
- (c) Take appropriate action to prevent the installation of Work, or the furnishing of material or equipment, which has not been properly approved or otherwise fails to conform to the Construction Documents and inform Commissioner promptly of such action and the reasons for and outcome of such action.
- (d) Supervise the performance of all inspections, quality control tests, or any other tests required by law, rule or regulation or by the Construction Documents, to ensure that such tests are performed in a satisfactory and timely fashion. Such tests shall include without limitation, semi-controlled or off-site inspections and controlled inspections and testing of soils, welding, cement, concrete, masonry, structural or reinforcing steel or any other material or equipment. If directed by the Commissioner in writing as a reimbursable service, the CM shall retain the services of a qualified laboratory to provide any required testing. Compensation for such laboratory services will be provided to the CM pursuant to the Allowance for Reimbursable Services.
- (e) Inspect the Project in conjunction with the Consultant and the Commissioner's Representative prior to Substantial Completion, occupancy by the City, or Final Acceptance, as set forth below in this Article 6. The CM shall furnish a detailed report to the Commissioner and the Consultant setting forth any discrepancies or deficiencies in the finished Work.
- (f) Inspect the Project and provide a report prior to the expiration of the guarantee period, as set forth below in this Article 6.

6.4.5 Undertake the following responsibilities with respect to the construction Progress Schedule:

- (a) Review and coordinate proposed Progress Schedule(s), and any updates thereto, submitted by the construction contractor(s) and direct revisions to the Progress Schedule(s) as required by the Commissioner. Support review of baseline construction schedule submitted by contractor(s) and assist with baseline construction schedule approval process.
- (b) Make recommendations to the Commissioner regarding approval or disapproval of the construction Progress Schedule(s). Compare current Progress Schedule to the approved baseline construction schedule and prepare variance analysis and critical path analysis.
- (c) If necessary, prepare a combined Progress Schedule for the Project in the form of a bar chart or equivalent, including preparing graphical comparisons to the baselines, which may include craft histograms. Utilize 4D scheduling and link any combined Progress schedule to the BIM.
- (d) Monitor compliance with the Progress Schedule(s) by the contractor(s).
- (e) Prepare and update resource loaded critical path method (CMP) using software systems as directed by the Commissioner.
- (f) Prepare a two (2) week look-ahead schedule on a biweekly basis.

- (g) Ensure contractor compliance with the submission requirements outlined in the Project BIM Execution Plan and DDC BIM Guidelines.
- (h) Review the adequacy of the personnel, including BIM coordinators, and equipment of the contractor(s) and the availability of necessary materials and supplies to ensure compliance with the Progress Schedule(s).
- (i) Notify the Commissioner of any anticipated delays in fabrication, erection or construction.
- (j) If performance of the work by the contractor(s) falls behind the Progress Schedule(s), advise the Commissioner of the same and make recommendations as to what methods should be adopted to make up for lost time.
- (k) Render assistance when required to minimize delays to the Project caused by labor disputes during construction.
- (l) If directed in writing by the Commissioner, implement Lean Construction Strategies, as described in Article 6.2.6.
- (m) Support DDC in delay analysis and review of allegations and notice of delays submitted by contractor(s), including maintaining a delay log showing all delays, the alleged source of each delay, and the CM's analysis of which party is responsible for the delay and/or whether the delay is concurrent. The CM shall also maintain copies and track responses/actions responsive to delay notices submitted by the contractor(s). Ensure that impacts to the schedule are properly recorded with attention to the correct assignment of responsibility for any delays. At Substantial Completion, the CM shall tally all the Days of delay attributable to each party (i.e., the City, Consultant, CM, and/or Contractor), and submit the same with the CM's documentary support and analysis for the Commissioner's review.

6.4.6 Review and evaluate the means and methods of construction proposed by the construction contractor(s) and advise the Commissioner in the event the CM reasonably believes that such proposed means and methods of construction will constitute or create a hazard to the work, or persons or property, or will not produce finished work in accordance with the Construction Documents.

6.4.7 Undertake the following responsibilities with respect to the safety of the site:

- (a) Review Site Safety Plan submittals from construction contractors for compliance with the DDC Safety Requirements. Approve Site Safety Plan submittals or direct revisions until the contractor's Site Safety Plan submittals conform with the DDC Safety Requirements.
- (b) Perform all CM responsibilities set forth in the DDC Safety Requirements.
- (b) Monitor contractor compliance with (1) Site Safety Plan and (2) DDC Safety Requirements, and (4) all applicable regulations that pertain to construction safety. The CM shall perform a daily inspection of the Project site at the beginning and end of each day and shall issue directives to the contractor(s) to correct any deficiencies which may be identified.
- (c) Promptly notify the Commissioner and the contractor(s) if the CM observes any hazardous conditions at the site or non-compliance by the contractor(s) with its Safety Program, Site Safety Plan, DDC Safety Requirements, any applicable safety regulations or subcontract requirements.
- (d) In the event of an emergency, provide such labor, materials, equipment and supervision necessary to cure such emergency condition. The CM shall immediately notify the Commissioner of any such emergency condition.

- (e) Monitor the activities of the contractor(s) and conditions at the site for conformance with the Construction Documents to ensure that a clean and safe environment is maintained at the site

6.4.8 Undertake the following responsibilities with respect to Project record keeping:

- (a) Keep accurate and detailed written records of the progress of the Project during all stages of planning and construction.
- (b) Maintain a daily job diary or log book describing all activities which occurred on the Project on a daily basis, including without limitation, all work accomplished, the number of workers, identified by trade, employed at the site by the construction contractor(s), the number of hours worked, material shortages, labor difficulties, weather conditions, visits by officials, decisions reached, specific problems encountered, general and specific observations, and all other pertinent data relative to the performance of the work. The daily job diary/log book entry must be uploaded to the CM's digital document management system daily.
- (c) Maintain accurate, orderly and detailed files and written records and documents regarding the Project, including without limitation, correspondence, minutes and/or reports of job conferences, progress reports, shop drawings and other submissions, construction contract documents, including all addenda, change orders, supplemental drawings and all other project-related documents. The CM shall upload all records, documents or information concerning the Project contemporaneously as they are created or received throughout the term of this Contract and shall provide such records, documents or information concerning the Project to the Commissioner as directed.
- (d) With respect to work to be performed on a time-and-materials, unit cost, or similar basis, requiring the keeping of records and computation therefrom, maintain cost accounting records in accordance with the City's procedures and in accordance with the Article of the Standard Construction Contract titled "Record Keeping for Extra or Disputed Work or Work on a Time & Material Basis".
- (e) Ensure that the construction contractors comply with the General Conditions by: (1) producing and keeping current Record Drawings (also known as "As Built Drawings") in a timely fashion, and (2) submitting such Record Drawings in hard copy, as well as in digital form (i.e., in the form of BIMs). The CM shall review the Record Drawings and verify that such Drawings are accurate and complete.
- (f) All Project records, including without limitation those specified above, shall be available to the Commissioner at all times immediately upon request, and the Commissioner shall have the right to remove such Project records and make copies thereof.
- (g) The CM shall contemporaneously upload all Project records, including without limitation those specified above, to the CM's digital data management system. Such records shall be in a format acceptable to the Commissioner or portable document format (PDF). At the CM's own expense, the CM shall remove and re-upload any digital records or files the Commissioner determines to be illegible, corrupted, or unclear and shall organize or reorganize digital records or files on the digital document management system as directed by the Commissioner.

6.4.9 Monitor compliance by the construction contractor(s) with the following requirements applicable to the work: (1) New York State Labor Law; (2) Americans with Disabilities Act (ADA), (3)

requirements for the participation of LBEs, and (4) requirements for the participation of M/WBE's.

6.4.10 Prepare correspondence or other communications to the construction contractor(s) as required in order to advance the Project, including without limitation letters for the signature of the Commissioner or the Commissioner's Representative.

6.4.11 Prepare and update trend analysis and tracking based on Earned Value indicators - EAC/ETC (Estimate at Completion/Estimate to Complete).

6.4.12 Undertake the following responsibilities with respect to construction contractor payments:

- (a) Within five (5) Business Days of receipt from the construction contractor, or other period directed in writing by the Commissioner:
 - (i) Review all requisitions for payments submitted by the construction contractor(s), including without limitation partial payments, payments for extra work, substantial completion and final payments.
 - (ii) Make recommendations to the Commissioner for approval or disapproval of all contractor requisitions for payment in accordance with the City's procedures.
 - (iii) Verify all estimates for payments of work performed, computations, as well as field measurements and sketches necessary for payment purposes.
 - (iv) With respect to each requisition for payments submitted by the construction contractor(s), determine the amount of liquidated damages, back charges or other deductions to be assessed.
 - (v) Input payment records into Project Information Module System (PIMS) and coordinate with DDC, as required.
- (b) Review and respond to questions and comments from DDC's EAO and Finance and Procurement Division within one (1) Business Day.
- (c) Perform analyses and estimates as directed by the Commissioner.

6.4.13 Within five (5) Business Days, or other period directed in writing by the Commissioner, review all applications for extensions of time submitted by the construction contractor(s) and make written recommendations to the Commissioner for approval or disapproval thereof in accordance with the City's procedures.

6.4.14 Within five (5) Business Days, or other period directed in writing by the Commissioner, review, evaluate and respond to requests from construction contractor(s) for explanatory information and/or interpretation of the meaning and intent of the Construction Documents ("RFI"). The CM shall confer with the Consultant, ascertain the Consultant's interpretation and prepare a response to the contractor setting forth the Consultant's interpretation. In the event the contractor disagrees with such interpretation, the CM shall prepare a detailed report to the Commissioner setting forth the Consultant's interpretation, the contractor's interpretation and that by the CM. Maintain and update the RFI log.

6.4.15 Undertake the responsibilities set forth herein with respect to disputes submitted by the construction contractor(s). Disputes means disputes of the kind delineated in the article of the standard construction contract entitled "Resolution of Disputes". Review, evaluate and prepare a recommended determination with respect to disputes filed by the construction contractor(s). The CM's recommendation shall be in writing, and shall contain a clearly stated, reasoned explanation for the determination based

upon the information and evidence presented by the contractor, as well as the requirements of the construction contract and the Construction Documents. The CM shall provide, with such recommendation, relevant Project records, clearly organized and labeled.

6.4.16 The Commissioner will make all final determinations regarding change orders, modifications and additions to the construction contract. The CM shall undertake the following responsibilities with respect to requests for change orders:

- (a) Document initial discovery of a change order review cause for and need of potential change orders, and evaluate cost, schedule any other impacts for all requests for change orders from the construction contractor(s) and obtain proposals from the contractor(s).
- (b) If directed by the Commissioner, the CM shall prepare an independent cost estimates for the proposed change order prior to obtaining fee proposals from the contractor(s).
- (c) Prepare and maintain a change order log inclusive of potential change orders.
- (d) Prepare a report to the Commissioner recommending approval or disapproval of the requested change order in accordance with City procedures. Such report shall include the CM's review and evaluation of the following: (1) the validity of the proposed change order, (2) the cost of the proposed change order submitted by the contractor(s), and (3) the quantities of labor, equipment and materials necessary to perform the proposed change order. The CM must be prepared to substantiate the information contained in its report to the Commissioner, the Engineering Audit Officer, the Comptroller and any other agency having jurisdiction in this area.
- (e) If directed by the Commissioner, the CM shall negotiate a price, i.e., a lump sum price or unit prices, for the performance of the proposed change order work and submit the same to the Commissioner for his approval.

6.4.17 Schedule and conduct bi-weekly job meetings with the construction contractor(s), Consultant(s), representatives of the Commissioner, the sponsoring agency, regulatory agencies and any other entities or individuals involved with the Project to discuss procedures, performance, progress, problems, coordination and clash detection, scheduling and related issues. Such meeting with construction contractor(s) shall include implementation of Lean Construction Strategies, as described in Article 6.2.6, if the use of such strategies is directed by the Commissioner. The CM shall prepare minutes of such meetings in a format authorized by the Commissioner and shall distribute such minutes to all attendees within two (2) Business Days of each meeting. In addition, the CM shall provide reports regarding BIM coordination and clash detection in a format authorized by the Commissioner.

6.4.18 Undertake the following responsibilities with respect to Project reports:

- (a) Submit written progress reports to the Commissioner on a monthly basis, unless otherwise directed. Such reports shall be based upon the most current information and shall include, without limitation:
 - (1) Progress Schedule, including information concerning the Work of the construction contractor(s) and the percentage of completion of the Work, by activity and overall Project, schedule analysis and variance report comparing the current Progress Schedule to the baseline construction schedule. The CM shall also, through BIM, provide a digital model representing the progression of the Work;

- (2) Change Order Tracking Sheet, indicating the number and amount of change orders, including potential change orders;
 - (3) Shop Drawing Log Schedule;
 - (4) Fabrication and Delivery Schedule;
 - (5) Risk analysis and risk assessment register log;
 - (6) Budget for the Project, including a comparison of the original budget with current disbursements and the estimated cost to complete,
 - (7) Compliance with M/WBE requirements;
 - (8) Progress photographs, as set forth below in this Article 6;
 - (9) Identify commissioning progress and deficiencies; and
 - (10) Monitor and track requirements for regulatory approval and sign-off.
- (b) Provide reports regarding the Work as may be directed by the Commissioner, incorporating such information, interpretation, detail or back-up material as may be required by the Commissioner.

6.4.19 Take pre-construction condition photographs and throughout construction to document the progress of the construction Work. During construction, through the completion of all Punch List Work, the CM shall take progress photographs of the Work each day Work is performed on the Site. The CM shall appropriately date, title, and describe each photograph and shall upload such photographs to the CM's digital document management system no later than the following Day. Such photographs shall be referenced appropriately by title or other specific identifier in each monthly progress report.

6.4.20 Determine the need for and recommend to the Commissioner the institution of default proceeding against the construction contractor(s) or the assessment of liquidated damages. Assist the Commissioner in selecting an alternate contractor(s) to perform the work and assist in evaluating back charges or other deductions to be assessed.

6.4.21 Undertake the following responsibilities with respect to substantial completion of the Project:

- (a) Inspect the Project in conjunction with the Consultant and the Commissioner's Representative at the time of substantial completion.
- (b) Furnish a detailed report to the Commissioner and the Consultant setting forth any discrepancies or deficiencies in the finished Work.
- (c) Make recommendations to the Commissioner regarding a determination of substantial completion.
- (d) Prepare and/or finalize all necessary punch lists, including completion dates for all items, and expedite execution of the same by the contractor(s).
- (e) Perform the above duties in the event the City is to take over, use, occupy or operate the Project, or any part thereof.
- (f) Prepare detailed construction delay analysis at substantial completion of the Project.

6.4.22 Undertake the following responsibilities with respect to final acceptance of the Project:

- (a) Inspect the Project in conjunction with the Consultant and the Commissioner's Representative at the time of final acceptance.

- (b) Furnish a detailed report to the Commissioner and the Consultant setting forth any discrepancies or deficiencies in the finished work.
- (c) Make recommendations to the Commissioner regarding a determination of final acceptance, including, but not limited to, solutions to any post-occupancy issues.
- (d) Assemble and deliver to the Commissioner all Record Drawings (also known as “As-Built Drawings”). Such Record Drawings shall be submitted in hard copy, as well as in digital form (i.e., in the form of BIMs). The CM shall review the Record Drawings and verify that such Drawings are accurate and complete. The CM shall notify the Commissioner of any issues, problems or observations relative to such Record Drawings.
- (e) Prepare a “Lessons Learned Report” for the Project and an updated risk register.

6.4.23 Collect warranties and/or guarantees from the manufacturer, maintenance and operations manuals, keying schedules and other data required of the construction contractor(s), and maintain photographic records, material and equipment delivery records, visual aids, charts and graphs. The CM shall ensure that all such warranties and/or guarantees from the manufacturer, as well as maintenance and operations manuals, are organized and available in the BIM.

6.4.24 Prior to the expiration of the guarantee period set forth in the construction contract, inspect the Project and furnish a report to the Commissioner describing in detail any finished Work in which defects of materials or workmanship may have appeared or to which damage may have occurred because of such defects, during the applicable guarantee period.

6.4.25 Prepare and submit DDC’s construction contractor performance evaluation form. Such performance evaluation form shall be completed when fifty percent (50%) of the contract amount has been vouchered and at substantial completion of the Project. The form shall be submitted to DDC no later than fifteen (15) calendar days after each of these events has occurred.

6.4.26 In the event any claim is made or any action brought in any way relating to the design or construction of the Project, the CM shall diligently render to the City all assistance which the City may require. Such services shall be rendered by the CM without additional fee or other compensation, except for the costs and expense of personnel who were assigned to the Project as job-site or management staff, or comparable personnel if those who were assigned to the Project are no longer employed by the CM.

6.4.27 Perform such other Project related services as may from time to time be directed by the Commissioner.

6.5 Services During Post Construction Phase: The services to be provided by the CM during the Post Construction Phase shall include without limitation the services set forth below, as directed in writing by the Commissioner.

6.5.1 Manage and supervise the delivery and installation of fixtures, furniture and equipment for the Project, as specified by the Commissioner.

6.5.2 Manage and supervise user acceptance orientation sessions provided by the construction contractors for all equipment and/or systems installed. Such orientation sessions shall provide instructions regarding the use and navigation of project information and records in digital form (i.e., in BIM), including As Built Drawings.

6.5.3 Assist the Commissioner in obtaining permanent Certificates of Occupancy for the Project.

6.5.4 If directed by the Commissioner, conduct a post-occupancy inspection and evaluation of the Project prior to the expiration of one (1) year from Substantial Completion and report to the Commissioner any deficiencies in materials or workmanship or damage caused by such deficiencies that the construction contractor may be required to repair, replace, restore or rebuild pursuant to the Article titled “Maintenance and Guaranty” in the Standard Construction Contract.

6.5.5 Submit to the Commissioner originals of all final Project records, including without limitation, (1) all reports for the Project, including inspector’s reports, as well as laboratory and plant testing reports; (2) all certificates, warranties and guarantees from manufacturers; (3) office and/or field diaries or log books; (4) all original records with respect to contractor payments; (5) all Record Drawings (also known as “As-Built Drawings”), in hard copy, as well as in digital form (i.e., in the form of BIMs); (6) progress photographs of the construction; (7) the final and complete “As Built” schedule, final cost report; and (8) any other Project records required by the Commissioner.

6.5.6 Upon completion of the Project, the CM is required to produce all Project records and all Data Management files in an electronic format, accessible and viewable to the Commissioner. The Project records and Data Management files must be organized following the industry best practice, and as directed by the Commissioner.

6.6 Reimbursable Services: The CM may be directed by the Commissioner to provide Reimbursable Services for the Project. If so directed, the CM shall provide such Reimbursable Services through entities approved by the Commissioner. Payment for Reimbursable Services shall be in accordance with the terms and conditions set forth in Article 7.

6.6.1 No Reimbursable Services shall be provided by the CM, or reimbursed hereunder, unless expressly authorized in a written directive from the Commissioner. For Reimbursable Services in excess of \$150, such written authorization must be provided in advance of the expenditure.

6.6.2 The CM shall utilize the method of procurement directed by the Commissioner. If so directed, the Engineer shall conduct a competitive bid and/or proposal process for the specified Reimbursable Service. In general, such competitive process will be required if the cost of the specified Reimbursable Service exceeds \$20,000.

6.6.3 The CM shall utilize the form of payment directed by the Commissioner. Payment for Reimbursable Services shall be in accordance with one of the following methods: (a) lump sum; (b) unit price, or (c) actual cost; except for long distance travel, as set forth in Article 7.

6.6.4 Reimbursable Services shall be such services determined by the Commissioner to be necessary for the Project, and may include, without limitation, the services set forth below.

- (a) Provision of the Field Office and all items in connection with the Field Office, except for items to be provided by the CM, as set forth in Article 6.1.3
- (b) Printing of contract documents and reports
- (c) Express mail postage, except as otherwise provided herein and excluding mail from the

- CM's main or home office to the Field Office
- (d) Laboratory services for testing of materials and/or items of work
 - (e) Purchase of long lead items for the construction work
 - (f) Performance of general conditions items
 - (g) Long distance travel. In the event the CM is directed in advance in writing by the Commissioner to provide services which require long distance travel, the CM shall be reimbursed for expenses incurred in connection with such long-distance travel. Long distance travel means travel which is in excess of 75 miles from whichever of the following is closer to the destination: (1) Columbus Circle, or (2) the CM's home office. Reimbursement for long distance travel expenses shall be as set forth in Article 7. Long distance travel shall not include travel expenses for the CM and/or any Subconsultants that are not located in New York City or its vicinity.
 - (h) Any other services determined by the Commissioner to be necessary for the Project.

6.6.5 In the event the CM is directed, as a Reimbursable Service, to purchase any items and/or equipment, such items and/or equipment shall, unless otherwise directed by the Commissioner, be the sole property of the City upon delivery to the designated location. The CM shall prepare and maintain an accurate inventory of all items and/or equipment which it is directed to purchase pursuant to the Allowance for Reimbursable Services. Such inventory shall be provided to the City upon request. Upon completion of the required work, as directed by the Commissioner, the CM shall turn such items and/or equipment over to the City.

6.7 Communications in Writing: All recommendations and communications by the CM to the Commissioner that will affect the cost of the Project shall be made or confirmed by it in writing. The Commissioner may also require other recommendations and communications by the CM to be made or confirmed by it in writing. All recommendations relating to proposed changes in the work, work schedules, instructions to contractor(s) and all other matters requiring action by the Commissioner and the contractor(s) shall be made directly to the Commissioner, unless otherwise directed by the Commissioner. After approval by the Commissioner, the CM shall issue instructions directly to the contractor(s).

6.8 Ownership of Documents: As set forth in the General Provisions (Appendix A), any reports, documents, drawings, models (including, without limitation, BIMs), records, data, photographs, deliverables, and/or other materials produced pursuant to this Agreement, and any and all drafts and/or other preliminary materials related to such items produced pursuant to this Agreement, in any format, whether in hard copy or digital form (i.e., in the form of BIMs), shall upon their creation become the exclusive property of the City.

6.8.1 During the term of this Contract and at any time within the retention period set forth in the General Provisions (Appendix A), the CM shall, upon demand, promptly deliver such material, records or documents to the Commissioner, or make such records available to the Commissioner or his/her authorized representative for review and reproduction at such place as may be designated by the Commissioner. Thereafter, the City may utilize such material, records or documents in whole or in part or in modified form and in such manner or for such purposes or as many times as it may deem advisable without employment of or additional compensation to the CM. Should such documents prepared under this Contract be re-used by the City for other than the Project originally created, it is understood that the CM bears no responsibility whatsoever for such re-use except in those instances where he is re-employed for re-use of the documents.

6.9 Patented and Proprietary Items: The CM shall not, without the prior written approval of the Commissioner, specify for the Project, or necessarily imply the required use of any article, product, material, fixture or form of construction, the use of which is covered by a patent, or which is otherwise exclusively controlled by a particular firm or group of firms.

ARTICLE 7 - PAYMENT TERMS AND CONDITIONS

7.1 General

7.1.1 Total Payments: Total payments for all services performed and all expenses incurred pursuant to this Agreement shall not exceed the amount set forth in Exhibit A.

7.1.2 Executory Only: This Agreement shall be deemed executory only to the extent of the moneys appropriated and available for the purpose of the Agreement and no liability or account thereof shall be incurred beyond the amount of such moneys. It is therefore understood that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available moneys for the purpose of this Agreement.

7.1.3 Allowances: In the event the allowance amounts described in this Article are not sufficient, as determined by the Commissioner, to cover the cost of the items of required Work for which allowance amounts are specified, the City will increase the amounts of such allowances. Notwithstanding the specific amounts allocated for allowances, as set forth in Exhibit A, the Commissioner may, by issuance of a “No Cost Change Order” to the Contractor, reallocate such specific allowance amounts within this Article 7.

7.1.4 Requisitions: Payment requisitions shall be accompanied by the documentation set forth in Article 7.4.

7.2 Staffing Expenses

7.2.1 General: An Allowance in the amount set forth in Exhibit A is established for payment of the CM’s staffing expenses for those individuals who have been assigned to the Project and are identified in the Staffing Plan approved by the Commissioner.

7.2.2 Limitations on Payment: Payment for staffing expenses is subject to the limitations set forth below.

- (a) Inclusion in Staffing Plan: The CM shall not be entitled to payment for any individual not included in the approved Staffing Plan. The specific individuals identified in the approved Staffing Plan, whether such individuals are the CM’s employee or Subcontractors, shall be considered Assigned Personnel for the purpose of the CM’s entitlement to payment for services performed by such individuals.
- (b) Contract Executive: The CM shall not be entitled to payment for the services of the Contract Executive. Compensation for the Contract Executive is deemed included in the Multiplier.

7.2.3 Payment: For any week during which an Assigned Personnel performs services for the Project, payment to the CM for such employee's services for that week shall be calculated as follows: Multiply the amount set forth in paragraph (a) by the number set forth in paragraph (b), and then multiply the result by the Multiplier set forth in Exhibit A; provided, however, such Multiplier shall **NOT** apply to any increase in the Assigned Personnel's Direct Salary Rate per hour for authorized services performed during other than regular business hours.

- (a) Assigned Personnel's Direct Salary Rate per hour, determined and approved in writing by the Commissioner in accordance with the provisions set forth below. In the event the CM receives written authorization from the Commissioner to have the Assigned Personnel perform services during other than regular business hours, the Assigned Personnel's Direct Salary Rate per hour may be subject to an increase, as provided below.
- (b) Total number of hours set forth on time sheets completed by the Assigned Personnel for the week(s) in question during which the Assigned Personnel actually performed services for this Project. This total number of hours shall **NOT** include the following: (1) any hours the Assigned Personnel spent commuting; (2) any non-billable hours, as defined below; (3) any hours during which the Assigned Personnel performed services for any other project; (4) any hours the Assigned Personnel spent performing services for the Project for which the CM is not entitled to compensation, and (5) any non-regular business hours, unless otherwise authorized in advance, in writing by the Commissioner.
- (c) Non-billable hours shall be defined as any hours set forth time sheets completed by the Assigned Personnel which have been allocated to any category or function other than services performed for this Project. Non-billable hours shall include without limitation: (1) compensated absence time, including without limitation vacation time, sick time, personal time and holidays; (2) performance of administrative tasks, or (3) any other time keeping category consistent with standard accounting practices.
- (d) The costs deemed included in the Multiplier are set forth in Article 7.2.8 below.

7.2.4 Equitable Reduction: The amount of payment to the CM for services performed for the Project by an Assigned Personnel, calculated as set forth above, shall be subject to an equitable reduction if, for the week during which an Assigned Personnel performed services for the Project, the total number of hours for which the Assigned Personnel was actually paid by the CM for that week, less any non-billable hours, is less than the total number of hours actually billed by the CM to all entities for the Assigned Personnel's services for that week, including the number of hours billed for this Project. In such event, the amount of payment to the CM for services performed by an Assigned Personnel for the week in question, calculated as set forth above, shall be reduced by multiplying such amount by the following: the fractional number resulting from the division of the number set forth in item (a) below by the number set forth in item (b).

- (a) Total number of hours for which the Assigned Personnel was actually paid by the CM for the week in question, less any non-billable hours, as defined above.
- (b) Total number of hours actually billed by the CM to all entities for the Assigned Personnel's services for the week in question, including the number of hours billed for this Project

7.2.5 Direct Salary Rate Per Hour: The Direct Salary Rate per hour for each Assigned Personnel shall be determined and approved in writing by the Commissioner, as set forth below. Upon approval by the Commissioner, the Direct Salary Rate per hour for each Assigned Personnel shall be included in the

Staffing Plan.

- (a) Actual Annual Direct Salary Rate per Hour: For each Assigned Personnel, the CM shall submit the items set forth below. The CM shall also submit any records or documentation requested by the Commissioner to verify the Assigned Personnel's actual annual direct salary, including without limitation, the CM's payroll register for the past twelve (12) months.
- (1) Actual Annual Direct Salary: The Assigned Personnel's actual annual direct salary shall be the salary amount directly payable to such employee on an annual basis and shall **NOT INCLUDE** any amount for the following costs or payments: (1) any payments for services performed during other than regular business hours (i.e., premium for Night Differential and/or Overtime); (2) any employer payments mandated by law, including without limitation, Social Security and Medicare taxes, insurance (Worker's Compensation, Employers Liability, Unemployment); (3) any employer contributions to retirement plans, including without limitation pension and/or deferred compensation plans, and (4) any costs for any other fringe and/or supplemental benefits.
 - (2) Computation: The Assigned Personnel's actual annual direct salary rate per hour shall be computed as follows: the Assigned Personnel's actual annual direct salary, as defined above, divided by 2080.
- (b) Determination of Direct Salary Rate: For each Assigned Personnel, the Commissioner shall determine and approve in writing the Direct Salary Rate per hour to be paid for such employee.
- (1) Once determined and approved by the Commissioner as set forth above, the Assigned Personnel's Direct Salary Rate per hour shall not be eligible for any increase whatsoever, except for the increase described in Article 7.2.6 below. Any such increase must be approved in writing by the Commissioner.
 - (2) The Direct Salary Rate per hour for an Assigned Personnel, determined and approved by the Commissioner, may be adjusted in accordance with Article 7.2.7 below, in the event the CM receives written authorization from the Commissioner in the particular instance to have the Assigned Personnel perform services during other than regular business hours.

7.2.6 Increases: An Assigned Personnel's Direct Salary Rate per hour, determined and approved by the Commissioner, shall be subject to an increase on a yearly basis, subject to the limitations set forth below. The first such increase shall be made one (1) year after the commencement date (i.e., the date set forth in the Notice to Proceed), and thereafter, for the remainder of the term of the Contract, including the extended term, on a yearly basis, on the anniversary of commencement date. Any increase in the Direct Salary Rate(s) shall be based on whatever increase may have occurred in the Employment Cost Index for Professional, Scientific and Technical Services, published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"), as determined by the Engineering Audit Office ("EAO"). If for the prior year, EAO determines that the Index showed an increase, the Direct Salary Rate(s) shall be increased. If, for the prior year, EAO determines that the Index declined or showed no increase, the Direct Salary Rate(s) shall remain unchanged. Any increase in the Direct Salary Rate(s) shall be applied on a prospective basis

only and shall have no impact on the rate paid to date.

- (a) The CM shall not be entitled to payment of any increase in an Assigned Personnel's Direct Salary Rate per hour unless the total amount of such increase is actually paid in full by the CM to the Assigned Personnel, as determined by the Commissioner. The CM shall submit its payroll register to verify the amount actually paid by the CM to the Assigned Personnel.
- (b) Any increase in an Assigned Personnel's Direct Salary Rate that is in excess of the increase specified above shall not be payable hereunder, even if paid by the CM.

7.2.7 Night Differential / Overtime: The Commissioner may authorize the CM in advance in writing to have an Assigned Personnel perform services during other than regular business hours. In the event of such authorization, the CM shall be entitled to payment of a premium or increase in the Assigned Personnel's Direct Salary Rate per hour for such services, subject to the limitations set forth below. Any premium or increase payable hereunder shall not be subject any Multiplier.

- (a) The CM's policy is subject to approval by the Commissioner in accordance with Article 5.
- (b) The premium for Night Differential shall not exceed ten (10%) percent of the Assigned Personnel's Direct Salary Rate per hour, and the premium for Overtime shall not exceed fifty (50%) percent of such Direct Salary Rate.
- (c) The CM shall not be entitled to payment of any premium unless the total amount of such premium is actually paid in full by the CM to the Assigned Personnel, as evidenced by the CM's payroll register.

7.2.8 Multiplier: The Multiplier set forth in Exhibit A shall include the items set forth below:

- (a) Profit
- (b) Overhead: Overhead shall include all costs and expenses incurred by the CM in connection with providing services for the Project, including expenses for management and administration. The CM agrees to make no claim for overhead expenses in excess of the Multiplier provided for herein. Overhead shall include, without limitation, the items set forth below:
 - (i) All expenses for compensation paid to personnel of the CM (other than construction management personnel identified in the approved Staffing Plan, except for the Contract Executive). Such other personnel of the CM shall include without limitation all officers, principals, employees and personnel of the CM, serving in whatever capacity, including any Contract Executive(s). Compensation for such other personnel is deemed included in the Multiplier. Compensation shall include without limitation: (1) wages and/or salaries; (2) all payments mandated by law, including without limitation, Social Security and Medicare taxes, insurance (Worker's Compensation, Employers Liability, Unemployment); (3) employer contributions, if any, to retirement plans, including without limitation pension and/or deferred compensation plans; (4) all payments for compensated absence time, including without limitation vacation time, sick time, personal time and holidays, and (5) costs for any and all other fringe and/or supplemental benefits.

- (ii) All expenses for compensation paid to Assigned Personnel identified in the approved Staffing Plan that are in excess of compensation for such personnel payable hereunder. Compensation for such personnel shall include without limitation the items listed in item (a) above.
- (iii) All expenses in connection with the performance of services, including without limitation: (1) expenses for non-reimbursable services, as set forth in Article 6, (2) meals, and (3) lodging.
- (iv) All expenses for home office general facilities, including, but not limited to, rental cost or depreciation factor, light, heat and water, telephone charges, including all charges for calls to the job site and DDC (except for long distance calls to other locations as specifically required by the Commissioner), sales, accounting fees and bookkeeping expenses, electronic data processing services, including programming and rental equipment, dues and subscriptions, stationery, printing, copying, postage, and any other office expenses or overhead costs, except as otherwise expressly provided in this Agreement.
- (v) All expenses for applicable taxes of any kind whatsoever, including without limitation, federal, state and local income tax and any franchise or other business taxes.
- (vi) All expenses for insurance coverage determined by the CM to be necessary for the performance of all required services hereunder, including without limitation: (1) all insurance required by this Contract; (2) all insurance required by law, and (3) all other insurance maintained by the CM, including without limitation, burglary and theft, general fidelity and payroll insurance.
- (vii) All expenses in connection with losses due to theft or robbery sustained by CM.
- (viii) All expenses in connection with fixed capital or moneys borrowed, including interest.
- (ix) All expenses with respect to legal services.
- (x) All management, administrative or overhead expenses of any kind whatsoever, including such expenses in connection with providing Reimbursable Services.

7.2.9 Representations: With respect to staffing expenses, the CM covenants and represents the following: (1) it shall incur only those staffing expenses which are necessary and reasonable, based on standard practice in the construction industry, to complete the Project, and (2) it shall ensure that staffing expenses do not exceed the Allowance for Staffing Expenses set forth in Exhibit A. Any deviations or anticipated deviations from the Allowance for Staffing Expenses, even those deviations which do not involve an increase in such allowance, will not be paid, unless approved in advance in writing by the Commissioner.

7.3 Allowance for Reimbursable Services

7.3.1 General: An allowance in the amount set forth in Exhibit A is established for payment for Reimbursable Services, as set forth in Article 6. In providing Reimbursable Services, the CM shall comply with all terms and conditions set forth in Article 6, including utilization of the method of procurement and

form of payment directed by the Commissioner. If so directed, the CM shall conduct a competitive bid and/or proposal process for the specified Reimbursable Service. In general, such competitive process will be required if the cost of the specified Reimbursable Service exceeds \$20,000.

7.3.2 Payment: Payment for Reimbursable Services (except for long distance travel) shall be as set forth below.

- (a) If payment is on a lump sum basis, payment shall be based upon the percentage of completion.
- (b) If payment is on a unit price basis, payment shall be based upon the number of completed units.
- (c) If payment is based on actual cost, payment shall be the actual and reasonable cost, as indicated by receipted bills or any other data required by the Commissioner.

7.3.3 Long Distance Travel: Payment for long distance travel, as set forth in Article 6, shall be in accordance with the normal travel allowances of the City of New York for its own employees as provided in Comptroller's "Directive #6, Travel, Meals, Lodging and Miscellaneous Agency Expenses."

7.3.4 No Mark Up: The CM shall not be entitled to any mark-up for overhead and profit on payments for Reimbursable Services. All costs and expenses for overhead and/or profit in connection with the provision of Reimbursable Services are deemed included in the Multiplier.

7.3.5 In the event the Commissioner directs the CM to provide Reimbursable Services and such Reimbursable Services require the CM, through its Assigned Personnel, to provide technical or professional services, the CM shall be paid for staffing expenses for its personnel through the Allowance for Staffing Expenses.

7.4 Requisitions for Payment

7.4.1 Requisitions for payment may be submitted as the work progresses, but not more often than once a month. Requisitions shall be in the authorized form and shall set forth the services performed by the CM and the total amount of partial payment requested for the payment period. The total amount of partial payment requested shall be broken down into the following categories: (1) Staffing Expenses, (2) Reimbursable Services, and, if applicable, (3) Incentive Payments. The CM shall submit one (1) original and two (2) copies of each requisition for payment. Requisitions must be accompanied by the documentation set forth below.

- (a) Project Progress Report: The CM shall submit a current report indicating (1) the percentage or milestone of completion of all required work or tasks for the Project, and (2) the services the CM provided during the payment period.
- (b) Staffing Expenses: For any period for which the CM is requesting payment for staffing expenses for an Assigned Personnel, the CM shall submit the documentation set forth below:
 - (1) Assigned Personnel's name and title.
 - (2) Commissioner approval of the Assigned Personnel, either approved Staffing Plan

or documentation approving the Assigned Personnel as a replacement.

- (3) Assigned Personnel's direct salary rate determined and approved by the Commissioner and included in the Staffing Plan;
 - (4) Multiplier for Overhead and Profit set forth in Exhibit A;
 - (5) Number of hours worked each day by the Assigned Personnel for the week(s) in question. The number of hours per day shall be broken down to indicate the number of regular business hours and the number of non-regular business hours. The Multiplier shall not apply to any increase in the Assigned Personnel's Direct Salary Rate per hour for authorized services performed during other than regular business hours.
 - (6) Detailed time sheets completed by the Assigned Personnel for the week(s) in question. Such detailed time sheets shall reflect all hours of service and a summary of the activities performed each hour by the Assigned Personnel, including without limitation: (1) actual hours during the employee performed services for this Project; (2) actual hours during which the employee performed services for other projects; (3) non-billable hours, as defined above; (4) actual hours, if any, during which the Assigned Personnel spent performing services for this Project for which the CM is not entitled to compensation, and (5) non-regular business hours, if any.
 - (7) Copy of the CM's payroll register for the week(s) in question reflecting the amount actually paid by the CM to the Assigned Personnel for that week,
 - (8) Applicable only if services were performed during other than regular business hours: (i) copy of authorization by Commissioner for such services, and (ii) copy of Commissioner's approval of the CM's policy regarding payment of a premium for services performed during other than regular business hours.
- (c) Reimbursable Services: For any period for which the CM is requesting payment for Reimbursable Services, the CM shall submit the documentation set forth below:
- (1) Description of the Reimbursable Service the CM was directed to provide.
 - (2) If payment is on a lump sum basis, a report on the progress of the work, indicating the percentage of completion of all required services.
 - (3) If payment is on a unit price basis, a report indicating the number of completed units.
 - (4) If payment is based on actual cost, receipted bills or any other data required by the Commissioner.

7.4.2 All payments hereunder are contingent upon the CM's satisfactory performance of the required services. The Commissioner is authorized to make deductions for any services performed which he/she determines to be unsatisfactory.

7.4.3 Following the receipt of a satisfactory requisition for payment, the Commissioner will approve a voucher in the amount certified for partial payment, less any and all deductions authorized to be made by the Commissioner under any terms of this Agreement or by law. This voucher will thereupon be filed with the Comptroller, with a copy thereof available to the CM if requested.

7.4.4 The CM acknowledges and agrees that timely and regular submission of its requisition requests is necessary to DDC's proper and efficient administration of the Project and this Agreement. The

CM will submit its requisitions for payment in accordance with this Article 7 in regular intervals, not less than once every six (6) weeks and no more than once per month, except for those periods where no services are performed.

ARTICLE 8 - AUTHORIZED ACTION

8.1 Wherever under this Agreement action is to be taken or approval given by the City, such action or approval may be taken or given only by the Commissioner or such person as may be designated in writing by the Commissioner to act on behalf of the City, for such purpose. The CM shall not act or rely upon any purported direction or approval by any other person on behalf of the City.

8.2 The Commissioner, through his/her duly authorized representative, the Assistant Commissioner, will, in writing, designate a City employee to review the performance of the CM and to serve as the Commissioner's Representative with respect to this Agreement. The CM shall be responsible to the Commissioner's Representative.

ARTICLE 9 - SERVICES FURNISHED BY THE CITY

9.1 The City, through the personnel of DDC, or by retaining the services of a Consultant, or through allowances in the construction contract(s), shall furnish for the use of the CM pile driving inspection, topographic surveys, inspection of concrete materials at mix plant and at job-site and such other services as the Commissioner, in his sole discretion, deems appropriate.

9.2 At the request of the CM, the City shall furnish, at its own expense, off-site inspections and tests of steel, cement asphalt aggregates, concrete sewer and drainage pipe, and such other materials.

9.3 The Commissioner may direct the CM to provide any of the above described services as Reimbursable Services in accordance with Article 6 hereof.

ARTICLE 10 - PARTICIPATION BY MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES IN CITY PROCUREMENT

ARTICLE I. M/WBE PROGRAM

Local Law No. 129 of 2005 added and Local Law 1 of 2013 amended Section 6-129 of the Administrative Code of the City of New York (hereinafter "Section 6-129"). Section 6-129 establishes the program for participation in City procurement ("M/WBE Program") by minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs"), certified in accordance with Section 1304 of the New York City Charter. As stated in Section 6-129, the intent of the program is to address the impact of discrimination on the City's procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for City business, and lowering contract costs. The contract provisions contained herein are pursuant to Section 6-129, and the rules of the Department of Small Business Services ("DSBS") promulgated thereunder.

If this Contract is subject to the M/WBE Program established by Section 6-129, the specific requirements of MBE and/or WBE participation for this Contract are set forth in Schedule B of the Contract (entitled the "M/WBE Utilization Plan"), and are detailed below. The Contractor must comply with all applicable MBE and WBE requirements for this Contract. All provisions of Section 6-129 are

hereby incorporated in the Contract by reference and all terms used herein that are not defined herein shall have the meanings given such terms in Section 6-129. Article I, Part A, below, sets forth provisions related to the participation goals for construction, standard and professional services contracts. Article I, Part B, below, sets forth miscellaneous provisions related to the M/WBE Program.

PART A: PARTICIPATION GOALS FOR CONSTRUCTION, STANDARD AND PROFESSIONAL SERVICES CONTRACTS OR TASK ORDERS

1. The MBE and/or WBE Participation Goals established for this Contract or Task Orders issued pursuant to this Contract, ("Participation Goals"), as applicable, are set forth on Schedule B, Part I to this Contract (see Page 1, line 1 Total Participation Goals) or will be set forth on Schedule B, Part I to Task Orders issued pursuant to this Contract, as applicable.

The Participation Goals represent a percentage of the total dollar value of the Contract or Task Order, as applicable, that may be achieved by awarding subcontracts to firms certified with New York City Department of Small Business Services as MBEs and/or WBEs, and/or by crediting the participation of prime contractors and/or qualified joint ventures as provided in Section 3 below, unless the goals have been waived or modified by Agency in accordance with Section 6-129 and Part A, Sections 10 and 11 below, respectively.

2. If Participation Goals have been established for this Contract or Task Orders issued pursuant to this Contract, Contractor agrees or shall agree as a material term of the Contract that Contractor shall be subject to the Participation Goals, unless the goals are waived or modified by Agency in accordance with Section 6-129 and Part A, Sections 10 and 11 below, respectively.

3. If Participation Goals have been established for this Contract or Task Order issued pursuant to this Contract, a Contractor that is an MBE and/or WBE shall be permitted to count its own participation toward fulfillment of the relevant Participation Goal, provided that in accordance with Section 6-129 the value of Contractor's participation shall be determined by subtracting from the total value of the Contract or Task Order, as applicable, any amounts that the Contractor pays to direct subcontractors (as defined in Section 6-129(c)(13)), and provided further that a Contractor that is certified as both an MBE and a WBE may count its own participation either toward the goal for MBEs or the goal for WBEs, but not both.

A Contractor that is a qualified joint venture (as defined in Section 6-129(c)(30)) shall be permitted to count a percentage of its own participation toward fulfillment of the relevant Participation Goal. In accordance with Section 6-129, the value of Contractor's participation shall be determined by subtracting from the total value of the Contract or Task Order, as applicable, any amounts that Contractor pays to direct subcontractors, and then multiplying the remainder by the percentage to be applied to total profit to determine the amount to which an MBE or WBE is entitled pursuant to the joint venture agreement, provided that where a participant in a joint venture is certified as both an MBE and a WBE, such amount shall be counted either toward the goal for MBEs or the goal for WBEs, but not both.

4. A. If Participation Goals have been established for this Contract, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, M/WBE Utilization Plan, Part II (see Pages 2-4) indicating: (a) whether the contractor is an MBE or WBE, or qualified joint venture; (b) the percentage of work it intends to award to direct subcontractors; and (c) in cases where the contractor intends to award direct subcontracts, a description of the type and dollar value of work

designated for participation by MBEs and/or WBEs, and the time frames in which such work is scheduled to begin and end. In the event that this M/WBE Utilization Plan indicates that the bidder or proposer, as applicable, does not intend to meet the Participation Goals, the bid or proposal, as applicable, shall be deemed non-responsive, unless Agency has granted the bidder or proposer, as applicable, a pre- award waiver of the Participation Goals in accordance with Section 6-129 and Part A, Section 10 below.

B. (i) If this Contract is for a master services agreement or other requirements type contract that will result in the issuance of Task Orders that will be individually registered (“Master Services Agreement”) and is subject to M/WBE Participation Goals, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, M/WBE Participation Requirements for Master Services Agreements That Will Require Individually Registered Task Orders, Part II (page 2) indicating the prospective contractor’s certification and required affirmations to make all reasonable good faith efforts to meet participation goals established on each individual Task Order issued pursuant to this Contract, or if a partial waiver is obtained or such goals are modified by the Agency, to meet the modified Participation Goals by soliciting and obtaining the participation of certified MBE and/or WBE firms. In the event that the Schedule B indicates that the bidder or proposer, as applicable, does not intend to meet the Participation Goals that may be established on Task Orders issued pursuant to this Contract, the bid or proposal, as applicable, shall be deemed nonresponsive.

(ii) Participation Goals on a Master Services Agreement will be established for individual Task Orders issued after the Master Services Agreement is awarded. If Participation Goals have been established on a Task Order, a contractor shall be required to submit a Schedule B – M/WBE Utilization Plan For Independently Registered Task Orders That Are Issued Pursuant to Master Services Agreements, Part II (see Pages 2-4) indicating: (a) whether the contractor is an MBE or WBE, or qualified joint venture; (b) the percentage of work it intends to award to direct subcontractors; and (c) in cases where the contractor intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs, and the time frames in which such work is scheduled to begin and end. The contractor must engage in good faith efforts to meet the Participation Goals as established for the Task Order unless Agency has granted the contractor a pre-award waiver of the Participation Goals in accordance with Section 6-129 and Part A, Section 10 below.

C. THE BIDDER/PROPOSER MUST COMPLETE THE SCHEDULE B INCLUDED HEREIN (SCHEDULE B, PART II). A SCHEDULE B SUBMITTED BY THE BIDDER/PROPOSER WHICH DOES NOT INCLUDE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS (SEE SECTION V OF PART II) WILL BE DEEMED TO BE NON-RESPONSIVE, UNLESS A FULL WAIVER OF THE PARTICIPATION GOALS IS GRANTED (SCHEDULE B, PART III). IN THE EVENT THAT THE CITY DETERMINES THAT THE BIDDER/PROPOSER HAS SUBMITTED A SCHEDULE B WHERE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS ARE COMPLETED BUT OTHER ASPECTS OF THE SCHEDULE B ARE NOT COMPLETE, OR CONTAIN A COPY OR COMPUTATION ERROR THAT IS AT ODDS WITH THE VENDOR CERTIFICATION AND AFFIRMATIONS, THE BIDDER/PROPOSER WILL BE NOTIFIED BY THE AGENCY AND WILL BE GIVEN FOUR (4) CALENDAR DAYS FROM RECEIPT OF NOTIFICATION TO CURE THE SPECIFIED DEFICIENCIES AND RETURN A COMPLETED SCHEDULE B TO THE AGENCY. FAILURE TO DO SO WILL RESULT IN A DETERMINATION THAT THE BID/PROPOSAL IS NON-RESPONSIVE. RECEIPT OF NOTIFICATION IS DEFINED AS THE DATE NOTICE IS E-MAILED OR FAXED (IF THE BIDDER/PROPOSER HAS PROVIDED AN

E-MAIL ADDRESS OR FAX NUMBER), OR NO LATER THAN FIVE (5) CALENDAR DAYS FROM THE DATE OF MAILING OR UPON DELIVERY, IF DELIVERED.

5. Where an M/WBE Utilization Plan has been submitted, the Contractor shall, within 30 days of issuance by Agency of a notice to proceed, submit a list of proposed persons or entities to which it intends to award subcontracts within the subsequent 12 months. In the case of multiyear contracts, such list shall also be submitted every year thereafter. The Agency may also require the Contractor to report periodically about the contracts awarded by its direct subcontractors to indirect subcontractors (as defined in Section 6-129(c)(22)). PLEASE NOTE: If this Contract is a public works project subject to GML §101(5) (i.e., a contract valued at or below \$3M for projects in New York City) or if the Contract is subject to a project labor agreement in accordance with Labor Law §222, and the bidder is required to identify at the time of bid submission its intended subcontractors for the Wicks trades (plumbing and gas fitting; steam heating, hot water heating, ventilating and air conditioning (HVAC); and electric wiring), the Contractor must identify all those to which it intends to award construction subcontracts for any portion of the Wicks trade work at the time of bid submission, regardless of what point in the life of the contract such subcontracts will occur. In identifying intended subcontractors in the bid submission, bidders may satisfy any Participation Goals established for this Contract by proposing one or more subcontractors that are MBEs and/or WBEs for any portion of the Wicks trade work. In the event that the Contractor's selection of a subcontractor is disapproved, the Contractor shall have a reasonable time to propose alternate subcontractors.

6. MBE and WBE firms must be certified by DSBS in order for the Contractor to credit such firms' participation toward the attainment of the Participation Goals. Such certification must occur prior to the firms' commencement of work. A list of MBE and WBE firms may be obtained from the DSBS website at www.nyc.gov/buycertified, by emailing DSBS at buyer@sbs.nyc.gov, by calling (212) 513-6356, or by visiting or writing DSBS at 110 William St., New York, New York, 10038, 7th floor. Eligible firms that have not yet been certified may contact DSBS in order to seek certification by visiting www.nyc.gov/getcertified, emailing MWBE@sbs.nyc.gov, or calling the DSBS certification helpline at (212) 513-6311. A firm that is certified as both an MBE and a WBE may be counted either toward the goal for MBEs or the goal for WBEs, but not both. No credit shall be given for participation by a graduate MBE or graduate WBE, as defined in Section 6-129(c)(20).

7. Where an M/WBE Utilization Plan has been submitted, the Contractor shall, with each voucher for payment, and/or periodically as Agency may require, submit statements, certified under penalty of perjury, which shall include, but not be limited to,: the total amount the Contractor paid to its direct subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount direct subcontractors paid to indirect subcontractors; the names, addresses and contact numbers of each MBE or WBE hired as a subcontractor by the Contractor, and, where applicable, hired by any of the Contractor's direct subcontractors; and the dates and amounts paid to each MBE or WBE. The Contractor shall also submit, along with its voucher for final payment: the total amount it paid to subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount its direct subcontractors paid directly to their indirect subcontractors; and a final list, certified under penalty of perjury, which shall include the name, address and contact information of each subcontractor that is an MBE or WBE, the work performed by, and the dates and amounts paid to each.

8. If payments made to, or work performed by, MBEs or WBEs are less than the amount specified in the Contractor's M/WBE Utilization Plan, Agency shall take appropriate action, in accordance with

Section 6-129 and Article II below, unless the Contractor has obtained a modification of its M/WBE Utilization Plan in accordance with Section 6-129 and Part A, Section 11 below.

9. Where an M/WBE Utilization Plan has been submitted, and the Contractor requests a change order the value of which exceeds the greater of 10 percent of the Contract or Task Order, as applicable, or \$500,000, Agency shall review the scope of work for the Contract or Task Order, as applicable, and the scale and types of work involved in the change order, and determine whether the Participation Goals should be modified.

10. Pre-award waiver of the Participation Goals. (a) A bidder or proposer, or contractor with respect to a Task Order, may seek a pre-award full or partial waiver of the Participation Goals in accordance with Section 6-129, which requests that Agency change one or more Participation Goals on the grounds that the Participation Goals are unreasonable in light of the availability of certified firms to perform the services required, or by demonstrating that it has legitimate business reasons for proposing a lower level of subcontracting in its M/WBE Utilization Plan.

(b) To apply for a full or partial waiver of the Participation Goals, a bidder, proposer, or contractor, as applicable, must complete Part III (Page 5) of Schedule B and submit such request no later than seven (7) calendar days prior to the date and time the bids, proposals, or Task Orders are due, in writing to the Agency by email at MWBEmodification@ddc.nyc.gov. Bidders, proposers, or contractors, as applicable, who have submitted requests will receive an Agency response by no later than two (2) calendar days prior to the due date for bids, proposals, or Task Orders; provided, however, that if that date would fall on a weekend or holiday, an Agency response will be provided by close-of-business on the business day before such weekend or holiday date.

(c) If the Agency determines that the Participation Goals are unreasonable in light of the availability of certified firms to perform the services required, it shall revise the solicitation and extend the deadline for bids and proposals, or revise the Task Order, as applicable.

(d) Agency may grant a full or partial waiver of the Participation Goals to a bidder, proposer or contractor, as applicable, who demonstrates—before submission of the bid, proposal or Task Order, as applicable—that it has legitimate business reasons for proposing the level of subcontracting in its M/WBE Utilization Plan. In making its determination, Agency shall consider factors that shall include, but not be limited to, whether the bidder, proposer or contractor, as applicable, has the capacity and the bona fide intention to perform the Contract without any subcontracting, or to perform the Contract without awarding the amount of subcontracts represented by the Participation Goals. In making such determination, Agency may consider whether the M/WBE Utilization Plan is consistent with past subcontracting practices of the bidder, proposer or contractor, as applicable, whether the bidder, proposer or contractor, as applicable, has made efforts to form a joint venture with a certified firm, and whether the bidder, proposer, or contractor, as applicable, has made good faith efforts to identify other portions of the Contract that it intends to subcontract.

11. Modification of M/WBE Utilization Plan. (a) A Contractor may request a modification of its M/WBE Utilization Plan after award of this Contract. PLEASE NOTE: If this Contract is a public works project subject to GML §101(5) (i.e., a contract valued at or below \$3M for projects in New York City) or if the Contract is subject to a project labor agreement in accordance with Labor Law §222, and the bidder is required to identify at the time of bid submission its intended subcontractors for the Wicks trades

(plumbing and gas fitting; steam heating, hot water heating, ventilating and air conditioning (HVAC); and electric wiring), the Contractor may request a Modification of its M/WBE Utilization Plan as part of its bid submission. The Agency may grant a request for Modification of a Contractor's M/WBE Utilization Plan if it determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to meet the Participation Goals. In making such determination, Agency shall consider evidence of the following efforts, as applicable, along with any other relevant factors:

- (i) The Contractor advertised opportunities to participate in the Contract, where appropriate, in general circulation media, trade and professional association publications and small business media, and publications of minority and women's business organizations;
- (ii) The Contractor provided notice of specific opportunities to participate in the Contract, in a timely manner, to minority and women's business organizations;
- (iii) The Contractor sent written notices, by certified mail or facsimile, in a timely manner, to advise MBEs or WBEs that their interest in the Contract was solicited;
- (iv) The Contractor made efforts to identify portions of the work that could be substituted for portions originally designated for participation by MBEs and/or WBEs in the M/WBE Utilization Plan, and for which the Contractor claims an inability to retain MBEs or WBEs;
- (v) The Contractor held meetings with MBEs and/or WBEs prior to the date their bids or proposals were due, for the purpose of explaining in detail the scope and requirements of the work for which their bids or proposals were solicited;
- (vi) The Contractor made efforts to negotiate with MBEs and/or WBEs as relevant to perform specific subcontracts, or act as suppliers or service providers;
- (vii) Timely written requests for assistance made by the Contractor to Agency's M/WBE liaison officer and to DSBS;
- (viii) Description of how recommendations made by DSBS and Agency were acted upon and an explanation of why action upon such recommendations did not lead to the desired level of participation of MBEs and/or WBEs.

Agency's M/WBE officer shall provide written notice to the Contractor of the determination.

(b) The Agency may modify the Participation Goals when the scope of the work has been changed by the Agency in a manner that affects the scale and types of work that the Contractor indicated in its M/WBE Utilization Plan would be awarded to subcontractors.

12. If this Contract is for an indefinite quantity of construction, standard or professional services or is a requirements type contract and the Contractor has submitted an M/WBE Utilization Plan and has committed to subcontract work to MBEs and/or WBEs in order to meet the Participation Goals, the Contractor will not be deemed in violation of the M/WBE Program requirements for this Contract with regard to any work which was intended to be subcontracted to an MBE and/or WBE to the extent that the Agency has determined that such work is not needed.

13. If Participation Goals have been established for this Contract or a Task Order issued pursuant to this Contract, at least once annually during the term of the Contract or Task Order, as applicable, Agency shall review the Contractor's progress toward attainment of its M/WBE Utilization Plan, including but not limited to, by reviewing the percentage of work the Contractor has actually awarded to MBE and/or WBE subcontractors and the payments the Contractor made to such subcontractors.

14. If Participation Goals have been established for this Contract or a Task Order issued pursuant to this Contract, Agency shall evaluate and assess the Contractor's performance in meeting those goals, and such evaluation and assessment shall become part of the Contractor's overall contract performance evaluation.

PART B: MISCELLANEOUS

1. The Contractor shall take notice that, if this solicitation requires the establishment of an M/WBE Utilization Plan, the resulting contract may be audited by DSBS to determine compliance with Section 6-129. See §6-129(e)(10). Furthermore, such resulting contract may also be examined by the City's Comptroller to assess compliance with the M/WBE Utilization Plan.

2. Pursuant to DSBS rules, construction contracts that include a requirement for an M/WBE Utilization Plan shall not be subject to the law governing Locally Based Enterprises set forth in Section 6-108.1 of the Administrative Code of the City of New York.

3. DSBS is available to assist contractors and potential contractors in determining the availability of MBEs and/or WBEs to participate as subcontractors, and in identifying opportunities that are appropriate for participation by MBEs and/or WBEs in contracts.

4. Prospective contractors are encouraged to enter into qualified joint venture agreements with MBEs and/or WBEs as defined by Section 6-129(c)(30).

5. By submitting a bid or proposal the Contractor hereby acknowledges its understanding of the M/WBE Program requirements set forth herein and the pertinent provisions of Section 6-129, and any rules promulgated thereunder, and if awarded this Contract, the Contractor hereby agrees to comply with the M/WBE Program requirements of this Contract and pertinent provisions of Section 6-129, and any rules promulgated thereunder, all of which shall be deemed to be material terms of this Contract. The Contractor hereby agrees to make all reasonable, good faith efforts to solicit and obtain the participation of MBEs and/or WBEs to meet the required Participation Goals.

ARTICLE II. ENFORCEMENT

1. If Agency determines that a bidder or proposer, as applicable, has, in relation to this procurement, violated Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, Agency may disqualify such bidder or proposer, as applicable, from competing for this Contract and the Agency may revoke such bidder's or proposer's prequalification status, if applicable.

2. Whenever Agency believes that the Contractor or a subcontractor is not in compliance with Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, or any provision of this Contract that implements Section 6-129, including, but not limited to any M/WBE Utilization Plan, Agency shall send a written notice to the Contractor describing the alleged noncompliance and offering the Contractor an opportunity to be heard. Agency shall then conduct an investigation to determine whether such Contractor or subcontractor is in compliance.

3. In the event that the Contractor has been found to have violated Section 6-129, the DSBS rules promulgated pursuant to Section 6-129, or any provision of this Contract that implements Section 6-129,

including, but not limited to, any M/WBE Utilization Plan, Agency may determine that one of the following actions should be taken:

- (a) Entering into an agreement with the Contractor allowing the Contractor to cure the violation;
- (b) Revoking the Contractor's pre-qualification to bid or make proposals for future contracts;
- (c) Making a finding that the Contractor is in default of the Contract;
- (d) Terminating the Contract;
- (e) Declaring the Contractor to be in breach of Contract;
- (f) Withholding payment or reimbursement;
- (g) Determining not to renew the Contract;
- (h) Assessing actual and consequential damages;
- (i) Assessing liquidated damages or reducing fees, provided that liquidated damages may be based on amounts representing costs of delays in carrying out the purposes of the M/WBE Program, or in meeting the purposes of the Contract, the costs of meeting utilization goals through additional procurements, the administrative costs of investigation and enforcement, or other factors set forth in the Contract;
- (j) Exercising rights under the Contract to procure goods, services or construction from another contractor and charge the cost of such contract to the Contractor that has been found to be in noncompliance; or
- (k) Taking any other appropriate remedy.

4. If an M/WBE Utilization Plan has been submitted, and pursuant to this Article II, Section 3, the Contractor has been found to have failed to fulfill its Participation Goals contained in its M/WBE Utilization Plan or the Participation Goals as modified by Agency pursuant to Article I, Part A, Section 11, Agency may assess liquidated damages in the amount of ten percent (10%) of the difference between the dollar amount of work required to be awarded to MBE and/or WBE firms to meet the Participation Goals and the dollar amount the Contractor actually awarded and paid, and/or credited, to MBE and/or WBE firms. In view of the difficulty of accurately ascertaining the loss which the City will suffer by reason of Contractor's failure to meet the Participation Goals, the foregoing amount is hereby fixed and agreed as the liquidated damages that the City will suffer by reason of such failure, and not as a penalty. Agency may deduct and retain out of any monies which may become due under this Contract the amount of any such liquidated damages; and in case the amount which may become due under this Contract shall be less than the amount of liquidated damages suffered by the City, the Contractor shall be liable to pay the difference.

5. Whenever Agency has reason to believe that an MBE and/or WBE is not qualified for certification, or is participating in a contract in a manner that does not serve a commercially useful function (as defined in Section 6-129(c)(8)), or has violated any provision of Section 6- 129, Agency shall notify the Commissioner of DSBS who shall determine whether the certification of such business enterprise should be revoked.

6. Statements made in any instrument submitted to Agency pursuant to Section 6-129 shall be submitted under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury. The making of a false or fraudulent statement by an MBE and/or WBE in any instrument submitted pursuant to Section 6-129 shall, in addition, be grounds for revocation of its certification.

7. The Contractor's record in implementing its M/WBE Utilization Plan shall be a factor in the evaluation of its performance. Whenever Agency determines that a Contractor's compliance with an M/WBE Utilization Plan has been unsatisfactory, Agency shall, after consultation with the City Chief Procurement Officer, file an advice of caution form for inclusion in VENDEX as caution data.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate, the day and year first above written, one copy to remain with the Commissioner, one copy to be filed with the Comptroller of the City of New York and one copy to be delivered to the CM.

THE CITY OF NEW YORK

By: _____
Commissioner Lorraine Grillo

CONSTRUCTION MANAGER:

By: _____
Print Name: _____
Title: _____
EIN: _____

Approved as to Form and Certified
as to Legal Authority

Acting Corporation Counsel

Date: _____

ACKNOWLEDGMENT OF PRINCIPAL IF A CORPORATION

State of _____ County of _____ ss:

On this ____ day of _____, _____ before me personally came _____, who being by me duly sworn, did depose and say that he/she resides in the City of _____, that he/she is the _____ of _____, the corporation described in and which executed the foregoing instrument; and that he/she signed his/her name to the foregoing instrument by order of the directors of said corporation as the duly authorized and binding act thereof.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT BY COMMISSIONER

State of _____ County of _____ ss:

On this ____ day of _____, _____ before me personally came Lorraine Grillo, to me known and known to me to be the Commissioner of the Department of Design and Construction of The City of New York, the person described as such in and who as such executed the foregoing instrument and he acknowledged to me that he executed the same as Deputy Commissioner for the purposes therein mentioned.

Notary Public or Commissioner of Deeds

EXHIBIT A – CONTRACT INFORMATION

- Project: Supplemental services for the New York City Housing Authority Apartment Repairs Program
- Total Not to Exceed Amount: \$ _____
(Total of the Allowances listed below)
 - Allowance for Staffing Expenses: \$ _____
 - Allowance for Reimbursable Services: \$ _____
 - Allowance for Incentives: \$ _____
- Multiplier for Overhead and Profit:
- Term of Contract: The Contract shall commence as of the date set forth in the Notice to Proceed and shall remain in effect until Final Acceptance of all required construction work for the Project and completion of all required services hereunder. Approximate time frame for Final Acceptance of all required construction work for the Project and completion of all required services is 250 consecutive calendar days (CCDs) for the entire program and 17 CCDs per apartment, broken down as follows: (1) Pre-construction Phase: 5 CCDs, (2) Construction Phase: 17 CCDs, and (3) Post Construction Phase: 5 CCDs.
- Insurance Requirements: The amounts of insurance required, subject to Article 7 of Appendix A, are set forth below in Schedule A. General Provisions governing the Contract, including insurance coverage the CM and its subconsultants are required to provide, are set forth in Appendix A, which is included as an Exhibit to the Contract. Insurance Requirements are set forth in Article 7 of Appendix A.

EXHIBIT A, CONTINUED: SCHEDULE A

General Provisions, Appendix A-Article 7 ¹ -- Insurance	
Types of Insurance (per Article 7 in its entirety, including listed paragraph)	Minimum Limits and Special Conditions
<p>■ Workers' Compensation §7.02</p> <p>■ Disability Benefits Insurance §7.02</p> <p>■ Employers' Liability §7.02</p>	Statutory amounts.
<p>■ Commercial General Liability §7.03(A)</p>	<p><u>\$3,000,000.00</u> per occurrence</p> <p><u>\$1,000,000.00</u> personal & advertising injury (unless waived in writing by the Department)</p> <p><u>\$6,000,000.00</u> aggregate</p> <p><u>\$0</u> products/completed operations</p> <p>Additional Insureds:</p> <ol style="list-style-type: none"> 1. City of New York, including its officials and employees, and 2. NYCHA
<p>Commercial Auto Liability §7.03(B)</p> <p>If vehicles are used in the provision of Services under this Agreement, then the PMC will maintain Commercial Automobile Liability insurance in the amount specified.</p>	<p><u>\$1,000,000.00</u> per accident combined single limit</p> <p>If vehicles are used for transporting hazardous materials, the CM will provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90</p>
<p>Professional Liability/Errors & Omissions §7.03(C)</p> <p>For all professional Services provided by the CM pursuant to this Agreement, CM will maintain, or cause each Subconsultant providing professional Services to</p>	<p>Minimum for the CM: <u>\$5,000,000.00</u> per claim</p> <p>Minimum for Subconsultants:</p> <ul style="list-style-type: none"> • For Subconsultants whose subcontract value is above \$1,000,000: an amount equal to the

¹ All article or section references in Schedule A are to Appendix A unless otherwise specified.

<p>maintain, professional liability insurance or errors and omissions insurance appropriate to the type(s) of such Services to be provided under this Agreement in the amount specified.</p>	<p>subcontract value, up to \$5,000,000, per claim.</p> <ul style="list-style-type: none"> For Subconsultants whose subcontract value is \$1,000,000 or less: \$1,000,000 per claim <p>For absence of doubt, the CM may require Subconsultants to carry higher amounts of insurance.</p>
<p><input type="checkbox"/> Crime Insurance §7.03(D)</p>	<p>\$_____ Employee Theft/Dishonesty</p> <p>\$_____ Computer Fraud</p> <p>\$_____ Funds Transfer Fraud</p> <p>\$_____ Client Coverage</p> <p>\$_____ Forgery or Alteration</p> <p>\$_____ Inside the Premises (theft of money and securities)</p> <p>\$_____ Inside the Premises (robbery or safe burglary of other property)</p> <p>\$_____ Outside the Premises</p> <p>\$_____ Money Orders and Counterfeit Money</p> <p>City of New York is a loss payee as its interests may appear</p>
<p><input type="checkbox"/> Cyber Liability Insurance §7.03(E)</p>	<p><i>Reserved</i></p>
<p><input type="checkbox"/> [OTHER]</p>	
<p><input type="checkbox"/> [OTHER]</p>	
<p align="center">Section 10.07 – Liquidated Damages</p>	
<ul style="list-style-type: none"> Violation of Section 3.02(H), reporting subcontractors in the City’s Payee Information Portal Exhibit K – Incentives and Liquidated Damages Provisions 	<ul style="list-style-type: none"> \$100 per day See Exhibit K

Section 14.04 – Notice	
Department's Mailing Address for Notices	Agency Head 30-30 Thomson Avenue Long Island City, Queens 11101
CM's Mailing Address and Email Address for Notices	

EXHIBIT B – STAFFING PLAN AND IDENTIFICATION OF SUBCONSULTANTS

STAFFING PLAN: The preliminary Staffing Plan and Identification of Subconsultants are set forth on the following pages. Such Staffing Plan and Subconsultants were submitted by the CM as part of its Proposal for the Contract. As set forth in Article 5, the final Staffing Plan is subject to review and approval by the Commissioner. Subconsultants are subject to approval in accordance with the General Provisions included as an Exhibit to the Contract.

EXHIBIT C – PROJECT OBJECTIVES

BACKGROUND

The New York City Department of Design and Construction (DDC), Division of Public Buildings, is seeking a qualified Construction Management (CM) firm to provide pre-construction, construction and post construction services to DDC's Project to provide supplemental services to the New York City Housing Authority's Apartment Repairs Program. The DDC program will involve the repair of approximately 400 apartment units within various New York City Housing Authority (NYCHA) housing complexes in the Borough of Brooklyn and Queens. All work is expected to be completed within an 8-month timeframe, with all work in 40-50 apartment units completed each month. All DDC supervised work will be completed by December 31, 2020. Work in individual apartment units must be completed within a 17-day period beginning on the date of the workorder walkthrough. The 17-day period ends at the sign off of the successful substantial completion walkthrough.

SCOPE OF WORK

Project Scope of Work

The construction scope of work within each apartment unit may include, but not be limited to, patching and painting of walls and ceilings, replacement of all doors, including apartment unit entry door, replacement of glazing in windows, replacement of floors throughout the apartment, replacement of kitchen cabinets and kitchen wall and floor tiles, re-glazing of bathroom sink, tub and toilet, replacement of bathroom wall and floor tiles, and installation of marble saddle at bathroom. NYCHA will provide documentation concerning lead clearance prior to commencement of work. Up to four construction contractors will be procured by DDC under separate contract(s).

Construction Management Scope of Services

The selected CM will oversee up to four DDC construction contractors working on the NYCHA Apartment Repairs Program and will provide all construction management services necessary and required for supervision, management, coordination, and administration of the Project. The CM will ensure that the required work is properly executed in a timely fashion and conforms to the requirements of the construction contract and all applicable NYCHA and City laws, rules, regulations and standards. Such services shall include, but will not be limited to, pre-scoping walkthroughs with the NYCHA property management superintendent, scope walkthroughs with all parties, site supervision, office engineering, estimating, regulatory approvals review, document management, site safety, scheduling, and community liaison coordination. The CM will be required to provide such services throughout all phases of the project.

In addition, the CM will be required to review all project documents to ensure they comply with DDC's requirements and processes. The CM will be responsible for reviewing, packaging, and submitting the general contractor's payment requisition as directed by DDC. The CM will address any issue that arise with payment requisitions until the payment is released by DDC. The CM will coordinate with NYCHA staff, DDC staff, and NYCHA community relations to meet the Program's needs.

SCHEDULE

The anticipated start date for the work is upon contract registration and Notice to Proceed with an approximate contract duration of 250 CCDs.

CONTRACT EXECUTIVE AND KEY PERSONNEL REQUIREMENTS

- Experience with technical, inspection, management, coordination and administration of Projects of similar complexity;
- Experience completing projects timely and in conformance with requirements of the construction contract;
- Experience and knowledge of construction industry best practices;
- Experience with review and approval of project scheduling;
- Experience with review and approval cost estimates;
- Experience with review and approval of data management and project lifecycle reports;
- Experience with review, evaluation and response to contractor's RFIs and change orders;
- Experience with review and processing of contractor's payments for all phases of work;
- Experience with monitoring and executing site safety requirements;

EXHIBIT D – DDC SAFETY REQUIREMENTS

CITY OF NEW YORK DEPARTMENT OF DESIGN AND CONSTRUCTION SAFETY REQUIREMENTS FOR CONSTRUCTION CONTRACTS

February 2019

**THE DDC SAFETY REQUIREMENTS FOR CONSTRUCTION CONTRACTS
INCLUDE THE FOLLOWING SECTIONS:**

- I. POLICY ON SITE SAFETY**
- II. PURPOSE**
- III. DEFINITIONS**
- IV. RESPONSIBILITIES**
- V. SAFETY QUESTIONNAIRE**
- VI. SITE SAFETY PLAN**
- VII. KICK-OFF/PRE-CONSTRUCTION MEETINGS AND SAFETY REVIEW**
- VIII. EVALUATION DURING WORK IN PROGRESS**
- IX. SAFETY PERFORMANCE EVALUATION**

I. POLICY ON SITE SAFETY

The City of New York Department of Design and Construction (DDC) is committed to a policy of injury and illness prevention and risk management for construction work that will ensure the safety and health of the workers engaged in the projects and the protection of the general public. Therefore, it is DDC's policy that work carried out by Contractors on DDC contracts must, at a minimum, comply with the most current versions of all applicable federal, state and city laws, rules, and regulations, including without limitation:

- ❑ Code of Federal Regulations, Title 29, Part 1926 (29 CFR 1926) and applicable Sub-parts of Part 1910 – U.S. Occupational Safety and Health Administration (OSHA);
- ❑ Federal Highway Administration – Manual on Uniform Traffic Control Devices (MUTCD);
- ❑ New York Codes, Rules and Regulations (NYCRR), Title 12, Part 23 – Protection in Construction, Demolition and Excavation Operations;
- ❑ New York Codes, Rules and Regulations (NYCRR), Title 16, Part 753 – Protection of Underground Facilities;
- ❑ New York City Administrative Code, Title 28 – New York City Construction Codes;
- ❑ Rules of the City of New York, Title 15, Chapter 13 – Rules Pertaining To the Prevention of the Emission of Dust from Construction Related Activities;
- ❑ Rules of the City of New York, Title 15, Chapter 28 – Citywide Construction Noise Mitigation;
- ❑ Rules of the City of New York, Title 34 Chapter 2 – NYCDOT Highway Rules.

The Contractor will be required to comply with all new and/or revised federal, state and city laws, rules, and regulations, issued during the course of the project, at the expense of the Contractor without any additional costs to the DDC.

II. PURPOSE

The purpose of this policy is to ensure that Contractors perform their work and supervise their employees in accordance with all applicable federal, state and city rules and regulations. Further, Contractors will be expected to minimize or eliminate jobsite and public hazards, through a planning, inspection, auditing and corrective action process. The goal is to control risks so that injuries, illnesses, and accidents to contractors' employees, DDC employees and the general public, as well as damage to city-owned and private property, are reduced to the lowest level feasible.

III. DEFINITIONS

Agency Chief Contracting Officer (ACCO): The ACCO will mean the person delegated authority by the Commissioner to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the City Chief Procurement Officer (CCPO).

Competent Person: As defined by OSHA, an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees or the general public, and who has authorization to take prompt corrective measures to eliminate them. This individual will have completed, at a minimum an authorized 30-hour OSHA Construction Safety Course. The Contractor may be required to provide more than one competent person due to construction operations and based on the number of active work sites.

Construction Safety Auditor: A representative of the Construction Safety Unit who provides inspection and assessment services to enhance health and safety on all DDC construction projects. The activities of the Construction Safety Auditor include performing site audits, reviewing safety plans, reviewing construction permits, drawings, verifying Contractor's compliance with applicable federal, state and city laws, rules, regulations, and DDC Contract Safety Requirements, etc. and rendering technical advice and assistance to DDC Resident Engineers and Project Managers.

Construction Safety Unit: A unit of DDC Safety and Site Support that assesses contractor's safety on DDC jobsites and advises responsible parties of needed corrective actions.

Registered Construction Superintendent: For certain projects, as defined in New York City Construction Codes – Title 28, the contractor will provide a Construction Superintendent registered with the NYC Department of Buildings and responsible for all duties as defined in Chapter 33 of Title 1 of the Rules of the City of New York.

Contractor: For purposes of these Safety Requirements, the term "Contractor" will mean any person or entity that enters into a contract for the performance of construction work on a DDC project. The term "Contractor" will include any person or entity which enters into any of the following types of contracts: (1) a prime construction contract for a specific project, (2) a prime construction contract using the Job Order Contracting System ("JOCS Contract"), and (3) a subcontract with a CM/Builder ("First Tier Subcontract").

Daily Safety Job Briefing: Daily jobsite safety briefings, given to all jobsite personnel at project site by the Contractor before work begins and/or if hazards or potential hazards are discovered while working, with the purpose of discussing the scheduled activities for the day, the hazards related to these activities, activity specific safety procedures, and Job Hazard Analysis associated with the scheduled construction work. Daily jobsite briefings will be documented, available at the jobsite, and will include at a minimum, topics, name and signature of the person conducting the briefing session, names and signatures of attendants, name of the designated competent person, contractor's name, DDC Project ID, date, time, and location.

Director - Construction Safety: Responsible for the operations of the Construction Safety Unit and the DDC Site Safety management programs.

Job Hazard Analysis (JHA): A process of identifying the major job tasks and any potential site-specific hazards that may be present during construction and establishing the means and methods to eliminate or control those hazards. A JHA will be documented, available at the jobsite and will include at a minimum work tasks, being performed, identified hazards, control methods for the identified hazards, contractor's name, DDC Project ID, location, date, name and signature of certifying person. A JHA is a living document that will be re-evaluated and revised to address new hazards and tasks that may develop and will be present at the worksite and produced upon request.

Qualified Person: As defined by OSHA, an individual who, by possession of a recognized degree, certificate, license, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his or her ability to solve problems relating to the subject matter, the work, or the project. Qualified Persons are required under regulation to address issues pertaining, but without limit, to fall protection, scaffold design, maintenance and protection of traffic, and excavation protective system, among others.

Project Site: Those areas indicated in the Contract Documents where the Work is to be performed.

Project Safety Representative: The designated Project Safety Representative will have at a minimum an OSHA 30-hour Construction Safety Course and other safety training applicable to Contractor's/subcontractor's project work. This individual will be responsible to oversee safety performance of the required construction work, conduct documented daily safety inspections, and implement corrective actions to maintain a safe work site. The Project Safety Representative must have sufficient experience and skills necessary to thoroughly understand the health and safety hazards and controls and must have authority to undertake corrective actions. A dedicated full-time Project Safety Representative may be required on large projects and projects deemed by DDC to be particularly high risk. DDC reserves the right to request a dedicated full-time Project Safety Representative for any reason at any time during the course of the project at the expense of the Contractor without any additional costs to the DDC. The full-time Project Safety Representative will be present at the site during all work activities.

Resident Engineer ("RE"): Representative of the Commissioner duly designated by the Commissioner to be his/her representative at the site of the work. The RE may be a consultant retained by DDC, including a Construction Management (CM) or Resident Engineer Inspection (REI) firm. If DDC has retained a CM, REI or other consultant firm to perform management and oversight for the Project (e.g., CM-Builder, CM-Design-Builder, Project Manager, Program Manager), that CM, REI or other consultant is the Resident Engineer for purposes of these Safety Requirements.

Safety Questionnaire: Used by DDC to evaluate Contractor's current and past safety performance. It is required to be completed by all Contractors initially when submitting bids for Construction work, or when being pre-qualified and updated annually or as requested by the DDC.

Site Safety Manager: For certain projects, as defined in New York City Construction Codes – Title 28, the Contractor will provide a Site Safety Manager with a Site Safety Manager License issued by the New York City Department of Building.

Site Safety Plan: A site-specific safety plan developed by the Contractor for a DDC project. The Site Safety Plan will identify hazards associated with the project work and include project specific safety procedures and training appropriate and necessary to complete the work. The Site Safety Plan will be submitted within 30 days from the Award Date or as otherwise directed and is subject to review and acceptance by the Construction Safety Unit prior to the commencement of work at the site.

Unsafe or Unhealthy Condition: A condition that could be potentially hazardous to the health and safety of personnel or the public, and/or damaging to equipment, machinery, property, or the environment.

Weekly Safety Meetings: Weekly jobsite safety meetings, given to all jobsite personnel by Contractor, with the purpose of discussing general safety topics and job specific requirements encountered at the DDC work site. Weekly safety meetings will be documented and will include at a minimum, topics, name and signature of the person conducting the meeting, names and signatures of attendees, contractor's name, DDC Project ID, date, and location.

Work: The construction required by the Contractor's Contract Documents whether completed or partially completed, performed by the Contractor/ subcontractors. Work refers to the furnishing of labor, furnishing and incorporating materials and equipment into the construction and providing any service required by the Contract Documents to fulfill the Contractor's obligation to complete the Project.

IV. RESPONSIBILITIES

All persons who manage, perform, and provide support for construction projects will conduct operations in compliance with the requirements identified in this Policy and all applicable governing regulatory agency requirements and guidelines pertaining to safety in construction.

A. Resident Engineer

1. Review and facilitate Contractor(s) Site Safety Plan submittals to DDC for acceptability.
2. Notify the Construction Safety Unit of the commencement of construction work.
3. Develop and implement a training verification process to ensure that all CM/REI, consultant, Contractor, and subcontractor employees are properly trained. Maintain all applicable initial and refresher training records and assures documentation availability on site.
4. Maintain documentation of and attend weekly safety meetings and daily safety job briefings.
5. Assure that Contractor(s) JHA's are current to reflect the work tasks being performed, hazards, and control methods to mitigate the identified hazards. Verify that all employees at the job site are trained on the JHAs and maintain supporting documentation on site.
6. Assure adequate planning for all critical construction activities (crane operation, excavation, confined space entry, etc.) including coordination between Contractor(s) /DDC/ other Agencies as required.
7. Maintain custody of all construction related permits, plans, approvals, drawings, etc., related to the project and assure their availability on site.
8. Recognize, minimize, or eliminate jobsite and public hazards, through required planning, inspection, verification, and corrective action process.
9. Monitor the conditions at the site for conformance with the Contractor's Site Safety Plan, DDC policies, permits, and all applicable regulations and documentation that pertain to construction safety.
10. Notify the Contractor and DDC immediately upon determination of any condition or activity existing which is not in compliance with the Contractor's Site Safety Plan, applicable federal, state or local codes or any condition that presents a

potential risk of injury to the public or workers or possible damage to property. Direct the Contractor to provide such labor, materials, equipment, and supervision to remedy such conditions.

11. Notify the Construction Safety Unit and the ACCO's Insurance and Risk Management Unit of project-related accidents, incidents, and near misses as per DDC's Construction Safety Emergency and Accident Notification and Response Procedure within two (2) hours.
12. In case of an accident, incident, or near miss, RE is responsible to protect the integrity of the accident site including but not limited to: the safeguarding of all evidence, documentation of all personnel on site at the time of the accident, gather facts related to all accidents, incidents, or near miss, and prepare required DDC Construction Accident Report as per DDC's Construction Safety Emergency and Accident Notification and Response Procedure. Maintain all records pertaining to accidents, incidents, and near miss and have them available upon request.
13. Notify the Construction Safety Unit within two (2) hours of the start of an inspection by any outside/ regulatory agency personnel, including NYS, OSHA, NYC DOB or any other City/State/Federal oversight entity and forward a copy of the inspection report within one business day of its receipt.
14. Escort and assist Construction Safety Auditors during all field and record audits.
15. Report any emergency conditions to the Construction Safety Unit immediately.

Note: In addition to the responsibilities listed above, if the Resident Engineer is a CM/REI or other non-City party hired by the City to manage the Project, the Resident Engineer is also required to do the following:

16. Provide personnel who are certified and or trained appropriately for the requirements of the project.
17. Perform an investigation for any project-related accidents, incidents, and near misses. Within 24-hours of the time of the accident, incident, or near miss, the CM/REI will submit an investigation report to the Construction Safety Unit. Such report will include proposed remedial measures and implementation of corrective actions to prevent recurrence.

DDC reserves the right to request that the CM/REI replace any CM/REI personnel for any reason at any time during the project.

B. Construction Contractors

Note: For CM-Build and CM-Design-Build Projects, the CM will meet all requirements listed in this section, as well as the Resident Engineer section above.

1. Submit a completed Safety Questionnaire and other safety performance related documentation with its bid or as part of a pre-qualification package.
2. Submit a Site Safety Plan within 30 days from the Award Date or as otherwise directed. The Site Safety Plan is subject to review and acceptance by the Construction Safety Unit prior to the commencement of work at the site. The Site Safety Plan will be revised and updated as necessary during the course of the project.
3. Designate and identify a Project Safety Representative in the Site Safety Plan. The Contractor will immediately notify the Construction Safety Unit, in a form and

manner acceptable to the Construction Safety Unit, of any permanent change to the designated Project Safety Representative. In the event the primary designated Project Safety Representative is temporary unable to perform his or her duties, an alternate Project Safety Representative will be provided. Resumes, outlining the qualification and experience for the Project Safety Representative (s) will be included in the Site Safety Plan and available upon request. DDC reserves the right to request the Contractor to replace a Project Safety Representative for any reason at any time during the course of the project.

4. Designate and identify a Competent Person(s) in the Site Safety Plan. Contractor/subcontractor may be required to provide more than one competent person due to construction operations and based on a number of work tasks/areas. DDC reserves the right to request the Contractor to replace a Competent Person or provide additional Competent Person(s) for any reason at any time during the course of the project. The Competent Person will be present at the site during all work activities.
5. For certain projects, as defined in New York City Construction Codes – Title 28, designate and identify the Licensed Site Safety Manager or Registered Construction Superintendent. Resumes, outlining the qualification and experience for the Licensed Site Safety Manager or Registered Construction Superintendent will be included in the Site Safety Plan and available upon request. The Contractor will immediately notify the Construction Safety Unit, in a form and manner acceptable to the Construction Safety Unit, of any permanent change to the designated Site Safety Manager and/or Construction Superintendent. In the event the primary designated Site Safety Manager or Construction Superintendent is temporarily unable to perform his or her duties, an alternate Licensed Site Safety Manager and/or Registered Construction Superintendent will be provided. The Construction Safety Unit must be informed of such change. DDC reserves the right to request the Contractor to replace Site Safety Manager or Construction Superintendent for any reason at any time during the course of the project.
6. Develop a written Job Hazard Analysis (JHA) that identifies safety hazards and control methods for project specific work tasks. A preliminary JHA will be included in the Site Safety Plan submitted by the Contractor. A JHA is a living document that will be re-evaluated and revised to address new hazards and tasks that may develop during the course of the project and will be present at the worksite and produced upon request.
7. Develop project specific safety procedures to protect employees, general public, and property during all construction activities for the duration of the project.
8. Ensure that all employees are aware of the hazards associated with the project through documented formal and informal training and/or other communications. Conduct and document new employee and site-specific safety orientation for all Contractor and subcontractor personnel to review the hazards associated with the project as identified in the Site Safety Plan and the specific safety procedures and controls that will be used to protect workers, the general public and property. The Project Safety Representative will conduct this training prior to mobilization and if necessary during the course of the project. Documentation will be provided to the RE.

9. Prior to performing any work on DDC project all Contractor's and subcontractor's employees will have successfully completed, within the previous five calendar years, an OSHA 10-hour construction safety course. All training records (OSHA 10-hour, flagger, scaffold, fall protection, confined space, etc.) will be provided to the RE prior to mobilization, included in the Site Safety Plan, kept current during the course of the project, and available for review.
10. Conduct and document weekly safety meetings and daily job briefing sessions for the duration of the project. Attendance at weekly safety meetings and daily job briefing sessions is mandatory. A written record of weekly safety meetings will be available upon request and job briefing sessions will be available at the worksite.
11. As part of the Site Safety Plan, prepare site specific procedures, such as maintenance and protection of traffic plan, steel erection plan, confined space program, fall protection plan, demolition plan, site specific emergency evacuation plan, etc. (if not otherwise provided in the contract documents) and comply with all of its provisions.
12. Have immediately available for review at the project site where actual construction activities are being performed all applicable documentation, including but not limited to: JHAs for work tasks being performed, all required training records, MPT plan (where applicable), Noise and Dust Mitigation Plans, excavation protective system drawings (where applicable), Emergency Evacuation plan, fall protection program (where applicable), confined space program (where applicable), all required permits, daily job briefing records, all required documentation for crane operation (where applicable), daily inspection checklist, scaffold and sidewalk drawings (when applicable), safety data sheets for chemicals in use.
13. Comply with all federal, state and local safety and health rules, laws, and regulations.
14. Comply with all provisions of the Site Safety Plan.
15. Provide, replace, and adequately maintain at or around the project site, suitable and sufficient signage, lights, barricades and enclosures (fences, sidewalk sheds, netting, bracing, etc.). The project specific MPT plan will be developed, implemented, and reviewed during the course of the project.
16. The Project Safety Representative will conduct daily safety inspections, document the inspection results, implement corrective actions for the identified hazards. Maintain the inspection records and have them available upon request.
- 17. Report unsafe or unhealthy conditions to the RE as soon as practical, but no more than 24 hours after discovery, and take prompt actions to remove or abate such conditions. Should an imminent dangerous condition be discovered, Contractor will stop all work in the area of danger until corrections are made.**
18. Report all accidents, incidents and near misses involving injuries to workers or the general public, as well as property damage, to the RE within one (1) hour.
19. Following an accident or incident, unless otherwise directed, the Contractor will not remove or alter any equipment, structure, material, or evidence related to the accident or incident. Exception: Immediate emergency procedures taken to secure structures, temporary construction, operations, or equipment that pose a continued imminent danger or facilitate assistance for persons who are trapped or who have

sustained bodily injury. Take additional measures as necessary to secure the accident or incident site and to protect against any further injury or property damage.

20. The Contractor will perform an investigation into the root cause of the accident, incident, or near miss. Within 24 hours of an accident, incident, or near miss, the Contractor will prepare and submit to the RE a written investigation report detailing findings, corrective actions, and hazard mitigation implementation to prevent recurrence.
21. Notify the RE within two (2) hours of the start of an inspection by any outside regulatory agency personnel, including OSHA, NYC DOB, or others.
22. Maintain all records pertaining to all required safety compliance documents, accidents and incidents reports. DDC reserves the right to request copy of any records pertaining to the safety of the project and required by DDC and other federal, state, and city agencies, including but not limited to permits, training records, safety inspection records, drawings, equipment records, etc.
23. Cooperate with DDC Construction Safety Unit/ RE and address DDC recommendations on safety, which will in no way relieve the Contractor of its responsibilities for safety on the project. The Contractor has sole responsibility for safety.

V. SAFETY QUESTIONNAIRE

DDC requires that all Contractors provide information regarding their current and past safety performance and programs. This will be accomplished by the use of the DDC Safety Questionnaire. As a part of the bid submittal package, the contractor will submit a completed DDC Safety Questionnaire listing company workers' compensation experience modification rating and OSHA Incident Rates for the three (3) years prior to the date of the bid opening. DDC may request a Contractor to update its Questionnaire at any time or to provide more detailed information. The Contractor will provide the requested information within 15 days.

The following criteria will be used by DDC in reviewing the Contractor's responsibility, which will be based on the information provided on the questionnaire:

- Criteria 1: OSHA Injury and Illness Rates (I&IR) are no greater than the average for the industry (based on the most current Bureau of Labor Statistics data for the Contractors SIC code); and
- Criteria 2: Insurance workers compensation Experience Modification Rate (EMR) equal to or less than 1.0; and
- Criteria 3: Any willful violations issued by OSHA or NYC DOB within the last three (3) years; and
- Criteria 4: A fatality (worker or member of public) and injuries, requiring OSHA notification, experienced on or near Contractor's worksite within the last three (3) years; and
- Criteria 5: Past safety performance on DDC projects (accidents; status of site safety plan submittals; etc.)
- Criteria 6: OSHA violation history for the last three (3) years;

Criteria 7: Contractor will provide OSHA Injury and Illness Records (currently OSHA 300 and 300A Logs) for the last three (3) years.

If the Contractor fails to meet the basic criteria listed above, the Construction Safety Unit may request, through the ACCO, more details concerning the Contractor's safety experience. DDC may request the Contractor to provide copies of, among other things, accident investigation reports, OSHA records, OSHA and NYC DOB citations, EPA citations and written corrective action plan.

VI. SITE SAFETY PLAN

Within thirty (30) days from the Award Date or as otherwise directed, the Contractor will submit the Site Safety Plan. The Site Safety Plan will identify project work scope, safety hazards associated with the project tasks, and include specific safety procedures and training appropriate and necessary to complete the work. The Site Safety Plan is subject to review and acceptance by the Construction Safety Unit prior to the commencement of work at the site. Due to the project work scope and project duration, the Construction Safety Unit may grant a conditional acceptance for a Site Safety Plan without all sections being complete. In a case of a "Conditional Acceptance" of a Site Safety Plan, the Contractor will provide the remaining sections previously incomplete and/or not submitted for review and acceptance by the Construction Safety Unit prior to the commencement of the construction activities. The Construction Safety Unit reserves the right to withdraw the initial "Conditional Acceptance" if the Contractor fails to provide the remaining sections of a Site Safety Plan. Failure by the Contractor to submit an acceptable Site Safety Plan will be grounds for default.

Site Safety Plan requirements: The Site Safety Plan will be a written document and will apply to all project specific Contractor and subcontractor operations, and will have at a minimum, the following elements with each described in a separate section (It may be necessary to modify the basic format for certain unique or high-risk projects, such as tunnels or high-rise construction). All Site Safety Plan sections will be numbered in the order listed below. For sections, which are not applicable for the type of the work being performed by the Contractor on DDC project, the Contractor will in writing indicate "Not applicable based on the project work scope." The Site Safety Plan will include Contractor's name, DDC project ID, project location (s), and development and revision dates. The Site Safety Plan will include the sections, attachments, and appendixes provided in the Site Safety Plan. All pages of the Site Safety Plan will be numbered.

1. Project Work Scope – Detailed information regarding work tasks that will be performed by Contractor and subcontractors under the project.
2. Responsibility and Organization – Contractor's organization chart with responsible personnel for the project, including titles, names, contact information, roles, and responsibilities. All Contractor's personnel required by the DDC Safety Requirements will be identified.
3. Safety Training and Education – OSHA 10 Hours training, requirements for daily safety briefings and weekly safety meetings, any work task specific training, responsible staff for implementation of training program for the project.

4. Job Hazard Analysis (JHA) – Project specific Job Hazard Analysis including work tasks, identified hazards, hazard control methods (administrative, engineering, PPE) to protect workers, property and general public, Contractor's name, project id, location, name and signature of a certifying person, hazard assessment date.
5. Protection of Public – Project specific procedures covering safety of the general public during all project construction activities.
6. Hazard Corrective Actions - Procedures for hazard identification, including responsible person(s), frequency of safety inspections, implementation of corrective actions, safety inspection checklist.
7. Accident/Exposure Investigation – Project specific procedures for accident/incident/near miss investigation and implementation of corrective actions. Accident/incident/near miss notification procedure of DDC project staff (time frame and responsible personnel).
8. Recording and Reporting Injuries – Procedures to meet 29 CFR 1904 requirements.
9. First Aid and Medical Attention – Responsible staff, location and inspection of First Aid kit, directions to local hospitals; emergency telephone numbers.
10. Project Specific Fire Protection and Prevention Program – Project specific procedures, including responsible staff, fire alarm system/methods, hot work procedures, etc.
11. Housekeeping Procedure.
12. Project Specific Illumination Procedure.
13. Project Specific Sanitation Procedure.
14. Personal Protective Equipment (PPE), including Respiratory Protection Program and Hearing Conservation Program, if required.
15. Hazard Communication Program – Contractor's Hazard Communication Program, responsible staff; training; SDS records, project specific list of chemicals; location of the program and SDS records.
16. Means of Egress – Information regarding free and unobstructed egress from all parts of the building or structure; exit marking; maintenance of means of egress, etc.
17. Employee Emergency Action Plan – Project specific: responsible staff, emergency alarm system/devices, evacuation procedure, procedure to account for employees after evacuation, etc.
18. Evacuation Plan – Project specific evacuation plan (drawing/scheme) with exits and evacuation routes.
19. Ionizing/Nonionizing Radiation – Competent person, license and qualification requirements, type of radiation, employee's exposure and protection, safety procedures, etc.
20. Material Handling, Storage, Use and Disposal – Project specific information regarding material storage, disposal, and handling: procedures, plan/drawings, etc.

21. Signs, Signals, and Barricades – Use of danger/warning signs, safety instruction signs, sidewalk closure and pedestrian fencing and barricades (if not included in the MPT plan), etc.
22. Tools – Hand and Power – Safety procedures for the type of tools to be used.
23. Scaffold – Project specific scaffold types, procedures, training requirements, scaffold drawings, designed, sealed, and signed by NYS Licensed Professional Engineer, or as otherwise directed; competent person, criteria for project specific scaffold, falling object protection, procedures for aerial lifts/scissor lifts.
24. Welding and Cutting – Project specific procedure for welding and cutting, including all necessary safety requirements such as fire prevention, personal protective equipment, hot work permits (if not covered by Contractor's Fire Prevention and Protection program, FDNY certificate requirements).
25. Electrical Safety – Project specific procedures, including lock out-tag out.
26. Fall Protection – Project specific information regarding selected fall protection systems, fall protection plan, responsible staff.
27. Cranes, Derrick, Hoists, Elevators, Conveyors – project specific equipment information including type, rated load capacity, manufacture specification requirements, competent person, exposure to falling load, inspection, recordkeeping, clearance requirements, communication procedure, ground lines, permits.
28. Excavation Safety – Competent person; excavation procedures; project specific protective system, including drawings, designed, sealed, and signed by NYS Licensed Professional Engineer, or as otherwise directed.
29. Protection of Underground Facilities and Utilities Procedure, including responsible staff and responsibilities.
30. Concrete and Masonry Construction Procedures
31. Maintenance and Protection of Traffic Plan – Project specific MPT plan, designed, sealed, and signed by NYS Licensed Professional Engineer, or as otherwise directed; flagmen training, public safety, etc.
32. Steel Erection – Site specific erection plan, requirements for applicable written notifications, competent person, fall protection plan, training requirements, etc.
33. Demolition – Engineering survey, including written evidence, disconnection of all effected utilities, identification of all hazardous chemicals, materials, gases, etc., floor openings, chutes, inspection and maintenance of all stairs/passageways, removal of materials/debris/structural elements, lock out/tag out, competent person.
34. Blasting and the Use of Explosives – Project specific safety procedures, warning signs, training/qualification, transportation, storage and use of explosives, inspection.
35. Stairways and Ladders – Types of stairs and ladders, safety procedures, training requirements.
36. Alcohol and Drug Abuse Policy
37. Rodents and Vermin Controls

38. Toxic and Hazardous Substances – Safety procedures for substances that Contractor's and subcontractor's employees can be exposed on project.
39. Noise Mitigation Plan – Completed project specific Noise Mitigation Plan, and noise mitigation procedures.
40. Confined Space Program – Project specific Confined Space Program, responsible staff, training records, equipment information, rescue procedure, list of project specific confined spaces, forms.
41. Construction Vehicles/Heavy Equipment – Type of construction vehicles/heavy equipment to be used on site, procedures
42. Dust Mitigation Plan – Completed project specific Dust Mitigation Plan, and dust mitigation procedures.
43. Working Over and Near Water. Diving Operations – safety procedures including personal protective equipment, fall protection, rescue services, etc.

The most critical component of the Site Safety Plan is the Job Hazard Analysis (JHA) section. The JHA form is a written document prepared by the Contractor. The Contractor will conduct a site and task assessment to identify the tasks and any potential safety or environmental hazards related to performance of the work, eliminate or implement controls for the potential hazards, and identify proper personal protective equipment for the task. The JHA will be communicated to all Contractor/subcontractor personnel on site. The JHA will include safety hazard identification and controls to protect employees, general public, and property.

The initial JHA will be included in the Contractor's Site Safety Plan and the current JHA form will be available at the construction site for reference. A JHA is a living document that will be re-evaluated and revised to address new hazards and tasks that may develop and will be present at the worksite and produced upon request.

VII. KICK-OFF MEETINGS/PRE-CONSTRUCTION AND SAFETY REVIEW

Prior to the start of construction activities on all DDC projects, RE will invite the Construction Safety Unit to the construction kick-off meeting. The Construction Safety Unit representative(s) will participate in this meeting with the Contractor and RE for the purpose of:

- A. Reviewing DDC Contract Safety Requirements
- B. Reviewing site-specific safety issues based on a project work scope, location, and any other factors which may impact safety of workers and general public.
- C. Reviewing the Site Safety Plan and JHA requirements.
- D. Reviewing Accident/Incident reporting and investigation procedures.
- E. Reviewing designated safety contacts, roles, and responsibilities.
- F. Discussing planned inspections and audits of the site by Construction Safety Unit personnel.

VIII. EVALUATION DURING WORK IN PROGRESS

The Contractor's adherence to these Safety Requirements will be monitored throughout the project. This will be accomplished by the following:

- A. Use of a safety checklist by a representative of the Construction Safety Unit (or other designated DDC representative) and the RE during regular inspections and comprehensive audits of the job site. Field Exit Conferences will be held with the RE and Contractor Project Safety Representatives.
- B. The RE will continually monitor the safety and environmental performance of the Contractor's employees and work methods. Deficiencies will be brought to the attention of the Contractor's Project Safety Representative on site for immediate correction. The RE will maintain a written record of these deficiencies and have these records available upon request. Any critical deficiencies will be immediately reported to the Construction Safety Unit via telephone (718)391-1911.
- C. If the Contractor's safety performance during the project is not up to DDC standards (safety performance measure, accident/incident rate, etc.) the Director – Construction Safety, or his/her designee will meet with the Contractor's Project Safety Representative and other representatives, the RE, and the DDC Environmental Specialist (if environmental issues are involved). The purpose of this meeting is to 1) determine the level of non-compliance; 2) explain and clarify the safety/environmental provisions; 3) agree on a future course of action to correct the deficiencies.
- D. If the deficiencies continue, the Commissioner may, without limitation, declare the Contractor in default.
- E. The Contractor will within 1 hour inform the RE of all accidents/incidents/near misses including all fatalities, any injuries to employees or members of the general public, and property damage (e.g., structural damage, equipment rollovers, utility damage, loads dropped from crane). The RE will notify the Construction Safety Unit as per DDC's Construction Safety Emergency and Accident Notification and Response Procedure and will maintain a record of all Contractor accidents/incidents for the project.
- F. The Contractor and the RE will notify the Construction Safety Unit within two (2) hours of the start of any NYS-DOL/ NYC-COSH/ OSHA/ EPA inspections.

IX. SAFETY PERFORMANCE EVALUATION

The Contractor's safety record, including accident/incident history and DDC safety inspection results, will be considered as part of the Contractor's performance evaluation at the conclusion of the project. Poor safety performance during the course of the project will be a reason to rate a Contractor unsatisfactory which may be reflected in the City's PASSPort system and will be considered for future procurement actions as set forth in the City's Procurement Policy Board Rules.

EXHIBIT E – SCHEDULE B: MWBE UTILIZATION PLAN

**SCHEDULE B: M/WBE UTILIZATION PLAN: The CM's M/WBE Utilization Plan
not required for this contract.**

EXHIBIT F – DDC BIM GUIDELINES

DDC BIM Guidelines, dated July 2012, are available at the website below and made part of this Agreement.

<http://www1.nyc.gov/site/ddc/resources/publications.page>

EXHIBIT G – HIRING AND EMPLOYMENT RIDER

HIRENYC AND REPORTING REQUIREMENTS

Introduction

This Rider shall apply to all contracts for goods, services, and construction with a value of one million dollars (\$1,000,000.00) or more, provided, however, that certain requirements of the Rider shall only apply as indicated below. This Rider addresses the HireNYC process, including reporting obligations under the HireNYC process, and certain other reporting requirements imposed by law. In general, the HireNYC process under this Rider requires the Contractor to enroll with the HireNYC portal for the City of New York (“the City”) found within the Department of Small Business Services’s (“SBS”) website, to disclose all entry to mid-level job opportunities described in this Rider arising from this contract and located in New York City, and to agree to interview qualified candidates from HireNYC for those opportunities.

HireNYC Requirements

Enrollment

The Contractor shall enroll with the HireNYC system, found at www.nyc.gov/sbs, within thirty (30) days after the registration of this Contract pursuant to Section 328 of the New York City Charter. The Contractor shall provide information about the business, designate a primary contact and say whether it intends to hire for any entry to mid-level job opportunities arising from this contract and located in New York City, and, if so, the approximate start date of the first hire.

Job Posting Requirements

Once enrolled in HireNYC, the Contractor agrees to update the HireNYC portal with all entry to mid-level job opportunities arising from this contract and located in New York City, if any, which shall be defined as jobs requiring no more than an associate degree, as provided by the New York State Department of Labor (see Column F of <https://labor.ny.gov/stats/2012-2022-NYS-Employment-Prospects.xls>). The information to be updated includes the types of entry and mid-level positions made available from the work arising from the contract and located in New York City, the number of positions, the anticipated schedule of initiating the hiring process for these positions, and the contact information for the Contractor's representative charged with overseeing hiring. The Contractor must update the HireNYC portal with any hiring needs arising from the contract and located in New York City, and the requirements of the jobs to be filled, no less than three weeks prior to the intended first day of employment for each new position, except with the permission of SBS, not to be unreasonably withheld, and must also update the HireNYC portal as set forth below.

After enrollment through HireNYC and submission of relevant information, SBS will work with the Contractor to develop a recruitment plan which will outline the candidate

screening process, and will provide clear instructions as to when, where, and how interviews will take place. HireNYC will screen applicants based on employer requirements and refer applicants whom it believes are qualified to the Contractor for interviews. The Contractor must interview referred applicants whom it believes are qualified.

After completing an interview of a candidate referred by HireNYC, the Contractor must provide feedback via the portal within twenty (20) business days to indicate which candidates were interviewed and hired, if any. In addition, the Contractor shall provide the start date of new hires, and additional information reasonably related to such hires, within twenty (20) business days after the start date. In the event the Contractor does not have any job openings covered by this Rider in any given year, the Contractor shall be required to provide an annual update to HireNYC to that effect. For this purpose, the reporting year shall run from the date of the registration of the contract and each anniversary date.

These requirements do not limit the Contractor's ability to assess the qualifications of prospective workers, and to make final hiring and retention decisions. No provision of this Rider shall be interpreted so as to require the Contractor to employ any particular worker.

In addition, the provisions of this Rider shall not apply to positions that the Contractor intends to fill with employees employed pursuant to the job retention provision of Section 22-505 of the Administrative Code of the City of New York. The Contractor shall not be required to report such openings with HireNYC. However, the Contractor shall enroll with the HireNYC system pursuant to Section A, above, and, if such positions subsequently become open, then the remaining provisions of this Rider will apply.

C. Breach and Liquidated Damages

If the Contractor fails to comply with the terms of the contract and this Rider (1) by not enrolling its business with HireNYC; (2) by not informing HireNYC, as required, of open positions; or (3) by failing to interview a qualified candidate, the contracting agency may assess liquidated damages in the amount of two-thousand five hundred dollars (\$2,500.00) per breach. For all other events of noncompliance with the terms of this Rider, the agency may assess liquidated damages in the amount of five hundred dollars (\$500) per breach.

Furthermore, in the event the Contractor breaches the requirements of this Rider during the term of the contract, the City may hold the Contractor in default of this contract.

Audit Compliance

In addition to the auditing requirements set forth in other parts of the contract, the Contractor shall permit SBS and the City to inspect any and all records concerning or relating to job openings or the hiring of individuals for work arising from the contract and located in New York City. The Contractor shall permit an inspection within seven (7) business days of the request.

Other Reporting Requirements

The Contractor shall report to the City, on a monthly basis, all information reasonably requested by the City that is necessary for the City to comply with any reporting requirements imposed by law or rule, including any requirement that the City maintain a publicly accessible database. In addition, the Contractor agrees to comply with all reporting requirements imposed by Law or rule, or as otherwise requested by the City.

Construction Requirements

Construction contractors shall comply with the HireNYC requirements set forth above for all non-trades jobs (e.g., for an administrative position arising out of the work of the contract and located in New York City) as set forth above.

In addition, construction contractors shall reasonably cooperate with SBS and the City on specific outreach events, including Hire on the Spot events, for the hiring of trades workers for the work of this contract.

Further, this contract shall be subject to a project labor agreement if so required elsewhere in this contract.

Federal Hiring Requirements

The Contractor shall comply with all federal hiring requirements as may be set forth elsewhere in this contract, including, as applicable:

Section 3 of the HUD Act of 1968, which requires, to the greatest extent feasible, economic opportunities for 30 percent of new hires be given to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

Executive Order 11246, which prohibits discrimination in employment due to race, color, religion, sex or national origin, and requires the implementation of goals for minority and female participation for work involving any Construction trade.

EXHIBIT H – APPENDIX A

**GENERAL PROVISIONS GOVERNING CONTRACTS FOR
CONSULTANTS, PROFESSIONAL, TECHNICAL, HUMAN AND CLIENT
SERVICES**

**EXHIBIT I – NEW YORK CITY STANDARD
CONSTRUCTION CONTRACT AND
GENERAL CONDITIONS**

**EXHIBIT J – INCENTIVES AND
LIQUIDATED DAMAGES PROVISIONS**